

THE Compleat Justice.

BEING
An exact and Compendious
Collection out of such as have
treated of the Office of Justices of
the Peace, but principally out of
*Mr. Lambert, Mr. Crompton
and Mr. Dalton.*

Now amplified and purged from
sundry Errors which were in
former Impressions thereof.

Whereunto are added

The Resolutions of the Judges of Assises
in the year 1633.

Together with

A Compendious Charge to be given at
the Quarter-Sessions, not in print
till this year 1661.

*Legis Præmio, aut pœna, vita moderatur Hu-
mana. Isidor. lib. 5. Etymolog.*

L O N D O N,
Printed, Anno Domini, 1661.





To the Reader.

Courteous Reader.



IHE great Antiqui-
ty of Justices of
Peace in this Na-
tion speaks not one-
ly the manifest Utility, but also
the necessity of that weighty office,
which hath been establisshed and
enlarged by the grave wisdom
of our Ancestors by many suc-
ceeding Acts and Ordinances of
Parliament, as you may perceiue
by the perusal of this insuing En-
chiridion, and although in the

To the Reader.

former Impressions thereof, the Reader hath been much injured by corrupt Editions, yet in this present Tract you may be securely confident of very few or no Errors at all, in regard it hath been revised with mature, and elaborate diligence, and therefore now no such cause of discouragement for the buying of this beneficial Collection as formerly; you shall find in it also much new matter added, concerning the said Office.



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 Abjuration





Abjuration.

THe abjuration of a seditious Sectary, ought to be made in open quarter Sessions of the Peace, & there to be entered of Record in the Rolls of the Sessions by the Clark of the Peace 35 *El. cap. 1.* & 2. *Lam. 615.*

Abjuration of a seditious Sectary made in open Qu. Sessions must be certified to the Justices of Assize at the next Assises, 95 *El. c. 1.* *Lam. 590.*

Justices of Peace cannot arraign a man upon his abjuration for felony, *Lam. 551.*
Vide plus. Recusants.

Absolve, *Vide* Treason.

Accessory and Principal.

Who shall be an accessory before the fact.

1. Abettor, Procurer, or consentor to a Felony, *Da. 292, 293. Cro. 41. a. nu. 1. Lam. 286, 287, 288. Stat. 44. a.*

2. Commander of an evil act is accessory to the felony proceeding thereof, as if death proceed of beating or robbing, *Lam. 286. Da. 293. Cro. 43. a. nu. 34.*

Com

2 Accessary and Principal.

3. Commander of one felony, whereby another ensueth, is accessary to the second: as, *A.* commandeth *B.* to fire the house of *C.* and thereby many are fired, *Lam.* 286, 287. *Cro.* 43. b. nu. 36.

4. Commander of a felony, though it be executed in another fashion, time and place, or manner then was commanded, *Lam.* 286, 287. *Cro.* 42. a. nu. 14. *Dal.* 293.

5. When a Statute ordaineth an act to be treason or felony, which was not so at the common law, and saith not, that the abettors, aiders, comforters, or consenters shall be felons, yet it shall be felony in them, *Dal.* 292, 297. *Lam.* 285.

Who not.

The felony commanded is executed on another person; the commander is not accessary, *Lam.* 287, 288.

The commanded performing more then was commanded, committeth felony, the command is not accessary, *Lam.* 287.

The commander of one felony to be done to a man, is not accessary to another kind of felony committed against the said party: as, one counselled to poison *A.* giveth it to *A.* and *B.* the counsellor is not accessary to the murder of *B.* *Lam.* 287, 288.

Commander or counsellor to a fact commandeth it before it be done, *Lam.* 289. *Dal.* 293. *Cro.* 42. a. nu. 16.

The knower of a felony without consenting, *Lam.* 289. Such concealment is fineable, *Cro.* 41. a. nu. 1. *Dal.* 294.

One:



Accessary and Principal. 3

One not party not privy who is present at a felony, and doth not disturb it, nor pursue the felon, is fineable, *Lam. 289. Dal. 292.*

Accessary after the fact.

Receiver of a felon, knowing him to be one, and suffering him to escape, whether before or after attainder, *Crom. 41. a. nu. 1. Dal. 294.*

Receiver or comforter of a felon with an evil intent. *Lam. 289. Dal. 294.*

Arrester of a felon by hue and cry taketh the goods and letteth him go, *Lam. 290.*

One pursuing a felon for his own goods, taketh money of him not to give evidence against him, whereby he is freed, *Lam. 290.*

Receiver or comforter of an accessary, knowing thereof, *Lam. 291. Dal. 297.*

Receiver of ones brother, knowing him to be a felon, *Lam. 291. Dal. 295.*

Receiver of an approver, or one straitened or outlawed of felony, knowing thereof, *Lam. 292.*

To harbour a felon attained in the same County, *Cro. 43. a. nu. 31. Dal. 294.*

But *Lam. 292.* holdeth it reasonable that he first have knowledge of such a record.

Receiver of stolen goods, knowing them to be stolen, *Cro. 41. b. nu. 3.* many authorities remembered: but *42. a. nu. 17.* he saith that he must receive the felon also. *V. de Cro. &c. vide Crom. 42. b. nu. 23. & 43. b. nu. 27. Dal. 295.*

Who

4. Accessary and Principal.

Who not.

Adutor by word or writing for the diliverance of a felon, knowing thereof, *Lamb.* 289, 290. *Dal.* 294.

Purser of a felon for his own goods, taketh them again, and letteth him go, *Lamb.* 290. *Dal.* 296.

Reliever or receiver of one bailed for felony, *Lam.* 290. *Cre.* 42. b. *ms.* 25. *Dal.* 294.

Buyer of stolen goods, knowing thereof, *Lam.* 291. unless he receive the felon, *Cre.* 42. a. *ms.* 17. *Dal.* 295.

The wife receiving the husband, knowing him to be a felon, *Lam.* 291, 292. *Dal.* 295.

Receiver of the striker of the stroke, after the stroke, and before the death, *Lam.* 292.

After acquittal as principal, one may be arraigned as accessary after the fact; but not before the fact, *Lamb.* 292, 557. *Cre.* 42. b. *ms.* 18.

One may be accessary to an accessary: as, if one feloniously receive or comfort an accessary, *Dal.* 297. *Lamb.* 291. *Cre.* 42. b. *ms.* 24.

Who shall be said a Principal.

Those of the society of a felon, and present at the fact, though not actors, *Statute* 40. a. *Cre.* 22. a. *ms.* 10, 15. *Dal.* 291.

An abetter, procurer, or receiver of a woman, knowing her to be taken away contrary to the Statute, 3 H. 7. cap. 2. *Lamb.* 285.

Accessary in one County to a felony done in another County, may be indicted where he

Additions.

5

he becometh accessory, 2 & 3 Ed. 6, cap. 24.
Dal. 297.

It is no good indictment against an accessory, to say, that he received the goods, without saying he received the felon, Lamb. 500. 291.

Acquital, *vide* Enditements.

Additions.

In every indictment or presentment where outlawry lieth, the estate of degree or mystery, the county, town, hamlet, or place where the indicted dwelleth, are to be added, 1 H. 5. c. 5. Lam. 488.

What shall be a good addition of degree or estate.

Duke, Marquess, Earl, Vicount, Archbishop, Bishop, Baron, Knight, Serjeant at law, Esquire, Gentleman, Alderman, Widow, single Woman, Dean, Arch-deacon, Parson, Doctor, Clerk, Parish-clark, Lam. 488, 489, 490.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertain, as Farmer, Servant, Butler, Chamberlain, Lam. 489. Cro. 109, 2. 6. m. 8.

What shall be a good addition of mystery.

Chopchurch, Merchant, Grocer, Mercer, Taler.

Tailor, Broker, Husbandman, Hostler,
Lighter-man, Waterman, Labourer, &c.
489.

What not.

That which is no mystery nor degree, a
Citizen; nor any unlawful trade, as Extor-
tioner, Maintainour, Vagabond, Heretick,
Dicer, Carder, &c. *Lam.* 489.

Addition of degree or mystery must be as
the party then is. But addition of the place
may be such whereof he was, *Lam.* 489, 490.

Additions Br. 41.

Addition of degree and mystery must be
knit to the proper person, *Lam.* 489.

The Statute of the 1 H. 5. cap. 5. of additi-
ons, doth not extend to informations, *Lamb.*
510.

*What shall be a good addition
of Place.*

Either of the Town or Parish, if they be
both of one name, *Lam.* 490.

Of the Town onely, where there be two
Towns in one Parish, *Lamb.* 490.

Either of the Town or Hamlet, if there be
two Hamlets in one Town, *Lam.* 490.

Of the Town, if the person be of a place
known within the Town, *Lam. ibid.*

Addition must comprehend the County,
Town, or Hamlet, whereof the party is or
was, *Lam. ibid.*

What not.

Of the place where he is Parson, without
naming

Affray and Affrayers. 7

ming the place of his abode, *Lamb. ibid.*

Affray and Affrayers.

An Affray may be without word or blow, to be armed with armour or weapon not usually born, *Lamb. 126.*

It is no affray properly unless there be some weapon drawn, or stroke given, or offered to be given, or some such attempt, *Dal. 34.*

Constable or other Officer may lay no hands on any intending to make an affray, till weapon drawn or offer of blow, *Dal. 34. Lamb. 132. Cro. 146. a.*

An affray is in an house, and the doors are shut, the Constable may break into the house to see the peace kept, *Dal. 34.*

If the Affrayers flee into another house, into a Franchise or other County, the Constable upon fresh suit may pursue them, but cannot meddle out of the County, but as a private man, *Dal. 34.*

Affrayer may be commanded by the Constable or other officer to avoid upon pain of imprisonment: And if the affray be great, they may make proclamation, and command the parties to prison for a small time, whom he must deliver without fine, *Lamb. 132. Dal. 34.*

After an affray, a Justice of Peace may commit the offenders till they finde sureties (if the affray were in his presence;) if out of his presence, he may send his Warrant, and commit them till they do finde sureties. *Vide Surety of the peace.*

If a man be dangerously hurt, and the wound

8 Affray and Affrayers

Wound mortal, although the Justice of Peace may bail the offender, yet it is the safest way to commit him till there appear some hope of recovery, *Dal. 35.*

If an assault or affray be made upon a Justice or Constable, they may defend themselves. The Justice may cause them to be arrested, the Constable may commit them to the Stocks, and after carry them before a Justice of Peace, *Dal. 35. Vide Peace.*

An affray is in a corporate Town (which hath justices within it self) while the Sessions be held there: the Justices of Peace shall not meddle there; but it is otherwise at the Assises, *Cro. 146. b.*

Every private man present at an affray, assault, or battery, may part them, slay them that come to the affray with weapon, slay the affrayers till the heat be over, and then deliver them to the Constable; but may not commit them, unless one of the affrayers be in peril of death. And if he flee into a house, upon Hue and Cry break open the house, and take him, *Dal. 33. Lamb. 131. Cro. 146. a. Vide plus Constable.*

Agnus Dei, Crosses, Beads, &c.

If any person to whom any of these, or any other superstitious things from the See of Rome or authority thereof be offered, do disclose the name, dwelling, or place of resort of such offerer or deliverer to any Justice of Peace of the same Shire, the same Justice must within fourteen daies next after declare the

same to some one of the privy Council,
pain of Præmunire, 13 El. cap. 2. Dal. 105.
plus Treason, Misprision, and Præmunire.

Alehouses.

Two Justices, one being of the Quorum,
may licence one to keep a common Ale-
house, taking bond with good surety for
good rule to be kept in his house, 5 Ed. 6 cap.
25. And an Alehouse-keeper put down by
two such, cannot be allowed by any other
two but in open Sessions, Dal. 29.

Twelve pence is given to the two Justices
of Peace, for taking a recognizance of him
that is allowed to keep a Common Alehouse,
5 Ed. 6. cap. 25. Lam. 370. Condition of a re-
cognizance for an Alehouse, Lam. 354.

He that keepeth an Alehouse of his own
authority, without licence of two Justices,
one being of the Quorum, or after prohibi-
tion of two such Justices, may by two such
Justices be committed to prison for three
daies without bail, and till he be bound with
two sureties to keep none after, Dal. 29. Lam.
354. Vide Stat. 3 Car. 3. which alloweth sel-
ling of beer and ale in Fairs (though unli-
censed:) As also the punishment of persons
unlicensed.

Information of the offence, and recogni-
zance taken by two Justices, one being of
the Quorum, of an Alehouse kept against the
Statute of 5 Ed. 6. cap. 25. and certified by them
to the Sessions, is a sufficient conviction,
without further trial at the Sessions: and
they may assess the fine of 20 shillings with-
out

out making process against the offender
Lam. 572.

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby he hath forfeited his recognizance, they may award process against him, to shew why he should not forfeit his recognizance. *Quære* what process, *Lam.* 524, 529.

Enquiry whether Alehouse-keepers have forfeited their recognizance, ought to be at the Quarter-Sessions, 5 *Ed.* 6. 25.

Fines imposed by the Stat. of 5 *Ed.* 6. cap. 25. concerning Alehouses cannot be altered by the Justices of Peace 5 *Ed.* 6. r. 25. *Lam.* 578.

Justices of Peace must certify the recognizance taken for Alehouses at the next Quarter Sessions after they are taken, or lose 5 Marks, 5 *Ed.* 6. cap. 25.

Any directly or indirectly selling Ale or Beer unto any Alehouse-keeper not licensed, more then for his necessary provision for his household, shall lose after the rate of 6 shillings 8 pence for every barrel. For the levy and disposal of the penalty, see *Viñals* 4 *Inc.* 4.

Alehouse-keeper or Inne keeper suffering any tipling contrary to the 1 *Inc.* cap. 9. 4 *Inc.* cap. 5. 7 *Inc.* cap. 10. 21 *Inc.* cap. 7. forfeiteth 10 shillings, and every such tipler 3 shillings 4 pence: for not ability of payment, the Alehouse-keepers, &c. to be committed to the Gaol till the penalty be payed, which penalty is to be paid within 6 daies, or the distress to be sold, 1 *Inc.* cap. 9. the tipler to the Stocks

locks for four hours, 4 *Iac. cap. 5. Dal. 28.*
Car. 4.

Justice of Peace hath power in those cases
 to minister an oath to witnesses, wherein
 oath of one witness is sufficient, 1 *Car. cap. 4.*
Iac. 9. 21 Iac. 7.

The Constables and Churchwardens neg-
 lecting to levie, or to certifie the cause
 hereof by 20 daies to the Justice that
 granted the distress, doe forfeit 40 shillings.
 in default thereof to be sent to the Gaol till
 payment be made, 1 *Iac. cap. 9. Dal. 28. Cro.*
78. a.

Alehouse keepers and Inne-keepers ought
 to lodge travellers. *Quere* how he is com-
 pellable, and see the opinion of Sir James
 Ley chief Justice at Lent Assises, 1622.
Dal. 28.

'No Inne-holder, Alehouse-keeper, or
 other Victualler shall be compelled to sell
 victuals to others, or to have lodging, ex-
 cept the party first pay ready money, *Dal.*
28. Cok. lib. 9. fol. 87. b. Brook. action sur la
case 76.

'Selling of less then a full Ale-quart of
 best Beer or Ale for 1 d. and of 2 quarts of
 small for 1 d. upon oath of one witness, the
 penalty is 20 shillings, 1 *Iac. cap. 9. 4 Iac. 6.*
5. 21 Iac. cap. 7. Dal. 26.

'Any tippling in any Inne, Alehouse, or
 Victualling-house, wheresoever his habita-
 tion be, forfeiteth 3 shillings 4 pence, 21 *Iac.*
cap. 7. Dal. 28.

'A feme covert keepeth an Alehouse, and
 selleth Ale, &c. without license, contrary
 to

to her husbands will, the husband is punishable, *Dal.* 30.

The voluntary confession before one Justice of Peace of any offender against the Statute of 1 *Inc. cap.* 9. or 4 *Inc. cap.* 5. is sufficient to convince the party offending. And after confession, the oath of the party confessing is proof against any other offending at the same time, *Dal.* 26. 21 *Inc. cap.* 7.

Alehouse-keepers are disabled to keep Alehouse for three years after;

1. If they suffer tipling, *Dal.* 31.

2. If they sell not a quart of the best, and two quarts of small Beer or Ale for a penny, *ib.* 1.

3. If they be convicted by Indictment at the Assises, Sessions, or Leet, for being drunk, 4 *Inc. cap.* 5. or before one Justice upon oath of one witness, 21 *Inc. cap.* 7.

4. Continue drinking in another Alehouse, 7 *Inc.* 10. 4 *Inc.* 5. *Dal.* 32. *Vide passim* Victuallers confession.

In all these cases, if he be licensed again within three years, such license is void, and he to be punished as victualling without licence. *Dal.* 32.

If any unlicensed Alehouse-keepers be convicted by the view of any Justice of the Peace, confession of the offender, or oath of two witnesses, he loses twenty shillings to the use of the poor of the Parish, to be levied by way of distress by warrant from the Justice of Peace convicting, and within three daies to be sold, 3 *Car. cap.* 3.

Where

Where there is no sufficient distress or non-payment, within six daies after conviction, the offender is to be openly whipped as the Justice of Peace shall limit, 3 *Car. cap. 3.*

The Officer refusing or neglecting to execute the Justice his precept, is to be committed to the Goal, until he do or procure the offender to be whipped, or pay 40 shillings to the use of the poor of the said Parish 3 *Car. c. 3.*

The second offence is commitment to the house of Correction for a moneth, *Ibid.*

The third offence is to remain in the house of Correction till he be delivered at the general Sessions, *Ibid.*

He that is punished by the Act 3 *Car. 3.* not to be punished by the Statute, 5 *Ed. 6, cap. 25* & *contr.*

Alias dictus, *vide* Endictment.

Alien and his trial, *vide* Trial.

Allegiance, *vide* Supremacy.

Amerciaments.

The owner of a beast, knowing it to be harmful, and not restraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King, *Lamb. 239. Cro. 24. nn. 45. Dal. 238.*

Offenders in gathering more amerciaments then are in their lawful estreats, to be convicted by two Justices, one to be of the Quorum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffs, 11 *H. 7. c. 15.*

Estreats of Amerciaments must be by Indenture between the two Justices appointed for oversight of Sheriffs books, and the Sheriff or under Sheriff under their seals, or else the Sheriff to lose 40 shillings, 11 H 7. cap. 13.

No amerciament for default of appearance, when the Sessions are not summoned by precept, *Lam.* 381. or when the Summons is at one place, and kept at another, *ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them, *Lam.* 384.

Justices of Peace cannot amerce their fellow for absence from the Sessions: but a Justice of Assize may amerce a Justice of Peace for his absence from the Goal-delivery, *Lam.* 385.

Clerk of the Peace, Coronors, Sheriffs, Bailiffs of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions, *Lam.* 395.

Amerciaments of Jurors for concealment. *Vide* Jurors, *Lam.* 400, 401. 3 H 7. cap. 1.

Appearance.

Recognizance taken for the Peace against all the Kings people, and to appear at the next Sessions by Superseas out of the Chancery, testifying surety found there against all the Kings people for ever, will discharge the appearance of the next Quarter Sessions. Otherwise it is, if it be but untill a day certain, *Lam.* 112. *Dal.* 173.

Who shall be amerced for default of appearance, and who not, *vide* Amerciaments. Release.

Appeach.

Appeachment, *vide* Approvers.

Appeal.

Justices of Peace can take no appeal of any felony, *Lam.* 550. *Stamf.* 65. a. *quare tamen.*

Appeal of robbery, *vide* Attainder.

Apprentices.

One thought fit to be bound as an Apprentice upon complaint made, and refusing to be bound, shall be committed till he will be bound, 5 *El.* 4. *Dal.* 78.

Upon complaint of an Apprentice, one Justice may take order betwixt his master and him, and for want of conformity in the master, may bind him to appear at the Quarter Sessions, *Dal.* 78. and to be discharged by four Justices. If default be in the apprentice, it seemeth one Justice may send him to the house of Correction, *Dal.* 78.

Assent of two Justices is sufficient to the Churchwardens or Overseers, or the most of them, to bind as apprentices the sons of poor parents, not able to keep and maintain them, till 24 years of age, or their daughters till 21 years of age, 39 *El.* ca. 3. 43 *El.* ca. 2 *Dal.* 83. *Lam.* 331. 21 *Fac.* c. 28. continued by 1 *Fac.* c. 25.

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by the Corporation, and in Towns not corporate by the Parson or Vicar, Cunstable, Church-warden, and Overseers for the time being, or most part of them, the same to be according to the will

of the Giver: And any of the disposers forbearing and refusing to dispose of the money, whereby it is not disposed, shall lose 3 pounds 6 shillings 8 pence, one moiety to the poor of the Parish, the other to the Informer 7 Fac. ca. 3.

Disposers of such money given for apprentices, are to take bond with two sureties of such master or mistress, for such money as they shall so receive, for the repaiment thereof at the end of seven years, or three months after, 7 Jac. cap. 3. Or if the apprentice die within 7 years, then to repay the money within one year after such master or mistress death, 7 Jac. ca. 3.

The master or mistress dying within seven years, the disposers are with the said money to put out the said apprentice to some of the said Trade, to serve out the residue of his 5 years, 7 Ia. ca. 3.

Money given for putting forth apprentices, is to be disposed within three months after the receipt, *ibid.*

None above 15 years old are to be placed by the disposers, and those to be of the poorer sort; and for want of such they may chuse others of the Parish next adjoyning, *Ibid.*

Disposers of money for Apprentices are to account before two Justices next adjoyning yearly in Easter week, or within a moneth after; and within ten daies after such account made, must deliver all such money and bonds remaining in their hands, to such as succeed in their rooms, *Ibid.*

He is no Apprentice, if he be not retained by

by Indenture, and by the name of an apprentice expressly, *Cro. 185. b.*

Breakers of trust for disposing money given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within 3 moneths, and the party grieved by an act of the Commissioners is to be relieved upon his Bill in Chancery, *7 Jac. cap. 3.*

Certificate to the head-officer of City or Borrough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroderer, or Clothier, may dispend 40 shill. freehold, must be under the hands and seals of three Justices where the land lieth *5 El. c. 4.*

Apprentice is to be discharged by four Justices in open Sessions, *Dal. 79.*

The discharge of an apprentice is to be inrolled by the Clarke of the Peace, *5 El. c. 4.* *Vide plus* abourers.

A master putteth his apprentice into apparel, he cannot take it away, though he part with his apprentice, *Dal. 96.*

Every houtholder having half a ploughland in tillage may take an apprentice betwixt the age of 10 and 18. to serve in husbandry, which must be by Indenture, *5 Eliz. cap. 4.*

Approvers or Appeachers.

Goaler, keeper, or under-keeper, by pain compelleth his prisoner to become an appeacher of others, it is felony, *14 E. 3. cap. 10.*

Justices of Peace can take no appeal of an approver,

approver, *Lam.* 550. *Stamf.* 144. a. *Dal.* 320.

One fellow accuseth another before the Justices of Peace; they may take his confession and reprieve him, and so proceed against the other, *Lam.* 551.

Archery.

“Justices of Assise, Goal-delivery, and of
 “the Peace, and Stewards of Leets have
 “power to enquire, hear, and determine of
 “the Statute 33. *H. c.* 9. and also by their
 “discretion examine all persons lacking
 “and not having bows, shafts and arrows,
 “according to the form of the said Statute,
 “viz. being under 60. years, and have not
 “in his house bow and arrows, or have not
 “used shooting. And every man-child be-
 “tween 7 and 17 years of age, not having a
 “bow and two shafts, and above 17 years,
 “four shafts, he loseth for every moneth 6
 “shill. 8. pen. *Lam.* 481. 33 *H.* 8. cap. 9

Armour.

Any (except the Kings Officers and their company doing their service) riding or going armed, or bringing force in a fray of the people are to be imprisoned, and lose their armour, 2 *E.* 3. cap. 3. *Dal.* 35. *Cro.* 76. a.

Justices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon enquiry by the Judges of Assise, are to be by them punished, 2 *Ed.* 3 cap. 3.

The counterpain of the Indenture of ar-
 mour

mour to be kept by the Clark of the Peace;
4 & 5 Ph. & Ma. cap. 2.

The Statute 4 & 5 Ph. & Ma. concerning
keeping of horses and armour, with the pe-
nalties thereof, are replied, 1 Jac. c. 25.

Armour and Munition of a Recusant con-
victed, being in his own possession, or at his
dispose, other then such as shall be thought
meet for the defence of his person and house,
by warrant of four Justices at the Quarter
Sessions are, to be seised and kept at such
place as the four Justices at the Sessions shall
appoint, at the cost of the owners; and they,
concealing or disturbing the delivery of it,
lose the armour and munition, and by war-
rant from any Justice of Peace, to be impris-
oned 3 moneths without bail, 3 Jac. c. 5. Re-
cusant having his armour seised, is to be
charged with such armour and horse, as he
and other of his Majesties Subjects shall be
commanded to serve with at musters, 3 Jac.
ca. 5.

Any Justice of Peace may arrest any (ex-
cept the Kings officers, and such as do him
service) that go armed, and bind them to the
peace, or good behaviour, Cro. 76. a. Dal. 30.
Lam. of Const. 13.

A Justice of Peace may cause weapons to
be taken from prisoners brought before
him, Dal. 26.

No servant in husbandry, artificer, victu-
aller, or labourer, shall wear sword or dag-
er 12 R. 2. c. 6. Dal. 36. Cro. 76. b.

Arrests.

An Arrest is a certain restraint of a mans person, depriving it of its own will and liberty, and binding it to become obedient to the will of the law, *Dal.* 343. *La.* 93. *Cr.* 38. a. 11. 1.

All lay persons under the degree of a Baron or Peer of the Realm, are subject to an arrest, *Lam.* 93. *Dal.* 343.

Ecclesiasticall persons not attendant upon divine Service, may be arrested for the peace, *Lam.* *ibid.* *Dal.* 166.

Constable or Justice of Peace comming to arrest an affraier, if he flie into another house, they may in fresh suit break open the door, and take him: So if he flie into another County, *Lam.* 134 *Dal.* 34.

All that come to the Sessions for publick service, or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon originall process, *Lam.* 402.

Bailiff taking above 4 pence for any arrest shall forfeit 40 li. 23 *H. 6. ca.* 10.

The officer ought to require the party to come and finde surety of the peace, before he arrest him, by the opinion of 3 *Ed.* 4. 31. *Lam.* 90. *Dal.* 166.

If one required by the officer upon warrant to finde surety of the peace, refuse, the officer by virtue of his warrant may convey him to prison, *Lam.* 92. *Dal.* 171.

In all criminall causes where one incurreth loss of member, or of life, every man may arrest him, whether he have warrant or
not,

not *Dal.* 344. But where a private man arresteth any in the cases aforesaid, he ought to deliver him to the constable, or some officer *Dal.* 348.

When a felony is committed, 1. any man that suspects another may arrest him: 2. or if there be common fame that he committed the felony: 3. or if he be prosecuted with hue and cry: 4. or if he be in company of the offenders: 5. or he apparantly go about to commit a felony, *Dal.* 345. *vide Cro.* 99. b.

A man is slain, or a felony committed, and an innocent party is arrested for the same: he cannot be delivered but by order of law. *Cro.* 40. b. n. 20. *Dal.* 279, 304. *Lam.* 233.

A Constable taking an affraier, may not imprison him in his house, but in the Stocks, *Lam.* 133. *Vide Riot, Sheriff, Prison.*

Arraignment.

Arraignment is commonly a compulsory coming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty, *Lam* 546.

One coming in freely, and indicted of an inferiour offence, may be arraigned, *Lam.* 547.

One arraigned of felony, if his case will serve may plead a justification or matter in law, *Lam* 547. And the Court shall assigne him counsell, *Cro.* 110. n. 5.

He that is arraigned of felony shall have leave to bring him into the Court who sold the thing to him, and the Court shall assign him counsell, *Cro.* 110. a n. 3.

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B 5

Arti-

Artificers, *vide* Labourers.

Assault.

Assault cannot be made without the offer of some hurtful blow, or at least of some fearful speech, *Lamb. 26.*

To rebuke a collector with foul words, so that he depart with fear, without doing his office, was taken for an assault, *Lamb. ib.*

To strike at a man, although he were neither hurt nor hit with the blow, is an assault, *Lamb. ibidem.*

Maker of an assault, battery, or other trespass upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a year, and any other corporal punishment saving life and member, 5 *Eliz. cap. 4*, & 5 *Dal. 80. Cro 84. a.*

If another assault me, if I may escape with my life, it is not lawful for me to beat the other, *Dal. 210.*

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justify the beating of the other, *Dal. 210.* Yet by opinion of *Elyas*, 12 *H. 3. fol. 2. b.* it is not lawful, except there be such peril as another is like to perish if there be no help, *Dal. 184. 210.*

‘A man taketh away my goods which are in my possession, I may take them again with

‘ with force, *Cro. 65. b. nn. 50, 61. & 137 a.*
 ‘ *Dal. 181.* But I must first lay my hands on
 ‘ him, and disturb him, and if he will not
 ‘ leave then, I may beat him, rather then he
 ‘ shall have my goods, *Dal. ibid.*

Assembly unlawful, *vide* Un-
 lawful Assembly.

Affize of Bread and Beer.

Any Brewer, or Baker, or Tipler, breaking
 the Affize of Bread and Ale, to be fined, 13 R.
 2. cap. 8. *Lamb. 459.*

Any officer taking fine for breach of the
 Affize of Bread and Ale, where there ought
 to be a corporal punishment, is to be fined,
 13 R. 2. cap. 8. *Lamb. 459.*

Attainder.

One attainted of felony may be arraigned
 for treason committed before or after the at-
 tainder, *Lamb. 557, 558.*

One attainted upon an appeal of robbery
 may be arraigned upon an appeal of robbery
 at anothers suit, *Lamb. 558.*

One attainted of felony, by standing mute;
 may after be arraigned of another felony,
Lam. 558.

One attainted of felony cannot after be
 arraigned for another felony, so long as the
 first is unpardoned, unless it be in the cases
 before, *Lam. 557.*

After the attainder, the felons grant of
 goods or lands bindeth all persons, except the
 Land-lord, to whom they ascheat, *Dal. 303*

Indictmen

24 Badgers and Drovers.

Indictment is, when an offence is found by the great Inquest, or other Jury of inquiry,

Conviction is when the offender is found guilty by a second Jury, having put himself to trial.

Attainder is, when after such conviction judgement is given against the offender.
Dal. 304.

A wait-lying, *vid.* Way-laying.

Averments.

No man shall be received to aver or speak against a record, *Lam. 63.*

Badgers and Drovers.

Licence to Badgers and Drovers, and Loaders of corn, must be in open Sessions, and there registred and kept by the Clerk of the Peace, 5 *El. c. 12. Lam. 610.*

Offences against the statute of Badgers and Drovers may be enquired of as well by examination of witnesses, as by presentment, 5 *El. cap. 12.*

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Justice of Peace 5 *El. cap. 12.*

Clark of the Peace must make and write
all Licences made to Badgers, Loaders, and
Drovers, and keep a book to register the
same, and the recognizance taken before
the Justices of Peace, which recognizance
must

must be [That they shall not do any thing contrary to the Statute 5 Ed. 6 c. 14. provided against forestallers,] and therein write the names and surnames and places of the licensed, with a brief entry of the licence, day, time, and place where it was granted, and bring the same to every Sessions, taking for the licence xii d. for the recognizance viii d. and for registering iv d. 5 El. cap. 12.

Bailment.

Bailment, Mainprise, or replevin, is the saving or delivering a man out of prison before he hath satisfied the law; so by finding sureties to answer, and to be justified by the law, *Lam* 340. *Dal.* 312.

He that is bailed, is delivered into his sureties hands to be kept, *Cro.* 152. b. nu. 6. *Stam.* 65. a. *Dal.* 312.

If the sureties doubt the escape of the prisoner bailed, a Justice of Peace upon prayer may discharge the sureties, and commit the party to prison, *Dal.* 312. *Cro.* 153. a. nu. 13. & 157. a.

A Justice of Peace may cause the bailed to find better sureties, *Cro.* 152. b. nu. 4. *Dal.* 312.

It is requisite to take two Subsidy-men for bail, especially if it be for felony, or suspicion thereof, *Dal.* 313.

To detain a prisoner that is bailable, is fineable, *Dal.* 313.

To bail one not bailable, is a negligent escape, *Dal.* 313.

A Justice of Peace bailing contrary to the law, or not certifying the bail and examination of the felon, is fineable by the Justices of Goal.

Goal-delivery, *Lamb.* 345. 1 & 2 P. & M. 1.
13. Cro. 167. b. *Dal.* 313.

Where one is bailable, he must offer sureties, *Dal.* 313.

For what offences a man is not bailable by a Justice of Peace by the statute of W. 1. 3 Ed. 1. 15. C10. 156. a. Lam. 345.

1. Abjured the Realm, *Dal.* 316.
2. Approver or appellour, *ibid.*
3. Appealed by an approver, *ibid.*
4. Burning a house feloniously, *ibid.*
5. Excommunication taken at the Bishops request, *ibid.*
6. Felon taken with the manner, *ibid.*
7. A known thief and defamed, *ibid.*
8. Outlawed, *ibid.*
9. Prison-breaker, *ibid.*
10. Traitor to the King himself, *ibid.*
11. Falsifier of the Kings money, *Dal.* 317.
12. Counterfeiter of the seal, *ibid.*
13. Attainted or convicted of felony, *ibid.*
14. Accessary to two felonies, if one principal be attainted, *Dal.* 319.
15. Death of man, if he be principal, *ibid.*
16. Taken upon process of rebellion issuing out of Chancery or Star-chamber, *Lam.* 347. *Dal.* 320.
17. Arrested by Process, Writ, Bill, or Warrant, in an action personal, *ibid.*
18. Persons convicted of felony, praying Clergy and reprieved, *Cro.* 154. a. m. 2. *Dal.* 318.

*For what other offences a man is not
bailable by a Justice of Peace.*

A Justice of Peace is not to bail but in
causes which he may hear and determine,
Lamb. 347. Dal. 320.

Murder, or any other homicide, *Dal. 315.*

Confessing the fault of manslaughter, *ibid.*
Lamb. 34.

Taken in the manner for killing, *ibid.*

Known to have killed a man, *ibid.*

By the King or his privy Councel, *Dal.*
316.

By the absolute, not ordinary command of
the Kings Justices, *ibid.*

For trespasses in the forrest, *We H. 1. cap. 15.*

Confessing the felony whereof he is accu-
sed, *Cro. 152. b.*

Imprisoned for surety of the peace, *23 H.*
6. c. 10. Lamb. 346.

Special commandement of any Justice,
23 Hen. 6. cap. 10. Lamb. ibid.

Where Bailment is taken away by Statute,
vide *Lam. 349. Dal. 320.*

For what offences a man is bailable.

Taken for light suspicion, *Dal. 317.*

Indicted of petty larceny, not being for-
merly guilty of another, *ibid.*

Charged, 1. With the receipt of thieves,
of felons, *Dal. 318.*

2. Of commandment, force or aid in felo-
ny done, *ibid.*

3. With the trespass that toucheth not loss
of

of life or member, *Dal.* 319. *West.* 1. 15. (if not prohibited by some later Statute) appealed by an Approver, being no common thief, nor defamed after the death of the Approver, *Dal.* 320.

Indicted of manslaughter, and acquitted, *Lam.* 347.

Acquitted of murder or manslaughter at the Kings suit, bailable during the year, 3 *H.* 7. cap. 1. *Lam.* 347.

Imprisoned by process out of the Sessions upon penal laws not forbidding bail, bailable out of the Sessions by two Justices, one being of the Quorum, *Lam.* 348. *Dal.* 319.

Accused of homicides which are not felony.

Accessory to felonies, *Dal.* 318.

If they be found of good fame, until the principal be convicted or attainted: but after the principal is attainted, he is not bailable, except he plead not guilty, or other plea, *Dal.* *ibid.*, & 321.

Principal in burglary, *Dal.* *ibid.*

Principal in an indictment of robbery, *Dal.* *ibid.*

Principal in an appeal of robbery, *Dal.* *ibid.*

Attached by Sessions Process upon indictment of trespass may be bailed by one Justice of Peace to appear at the day to answer the indictment, and may make his Superseas, *de cap. indict.* and so of the exigent, *Dal.* 319.

In every bailment which must be by two Justices, one of them being of the Quorum, the Just. must be present together at the time of bailment, who before bail taken must examine the prisoners, & receive the information.

tion of them that bring them: all which with the bailment they must put in writing, signed or subscribed with their own hands, and certified at the next Goal-delivery to be holden in the County, *1 & 2 Ph. & M. c. 13. Dal. 314.*

The said Justices have authority to bind all persons that can give evidence, to appear the next Goal-delivery to give evidence against the party at the time of his trial, *Dal. 303.*

Some statutes not only take bail from the offenders thereof upon their solemn conviction after judgement, but also upon the record of one or two Justices, or by examination or proof of witnesses, or other such private trial had before them, *Lam. 349.* For the form of bailment, *Lam. 252.* The form of the liberate, *Dal. 326. Lam. 352.*

Bailiffs:

Bailiff was punishable in false imprisonment, if he compel the party to go before any other Justice then he chuseth, *Lam. 89, 94.*

But now the law is adjudged to be, that the Bailiff or Constable shall chuse the Justice *Dal. 59. & Coke l. 5. 59. b. Fosters case.*

As the Bailiff may not compel him that is arrested for surety of the Peace, to go before him that granted the warrant; so it is not reasonable that the Bailiff shall be drawn, out of the division and limit where they both dwell, *Lam. 95. Dal. 171.*

A Bailiff arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false imprisonment *Dal. 341. Cro. 149. a. Lam. 90.*

A Bailiff arrests one by warrant for the Peace,

Peace, the Justice will not binde the party, in action lieth against the Bailiff, *Dal. 1. Lam. 9.*

Two Justices of Peace, one being of the Quorum, may give unto the Bailiffs of Franchises before they exercise their offices, the oaths of 1 *El.* of supremacy, & 27 *El.* touching their offices, 27 *Eliz. cap. 12.*

Bailiff taking above four pence for an arrest, is to forfeit 40 li. 23 *H. 6. cap. 10.* and lose treble damage to the party damnified.

Bailiff of the Hundred that executeth not a warrant against any defendant in the Sheriffs Court, shall lose 40 shill. 11 *H. 7. c. 15.* *Vide plus Warrants.*

Bakers, *vide* Assise of Bread.

Barettor.

A common Barettor is he, who is either a common mover, stirrer up, or maintainer of suits in law in any court, or quarrels in the county, *Dal. 36. Lam. 440. Gre. 84. a.* and is to be bound to his good behavior, and imprisoned, *Lam. 440. Vide plus Dal. 36. Coke 8. 36.*

Bargain and Sale, *vide* Inrolement.

Bark of Trees, *vide* Leather.

Bastardy.

Two Justices of Peace, one being of Quorum, in or next to the Parish, where a bastard left to the charge of the Parish, or likely to be chargeable, is born, are to take order for the relief of the Parish, keeping of the child, and punishment of the reputed father and mother, 18 *El. 3. 7 Jac. c. 4. Dal. 37.*

The

The reputed father and mother not performing the order set down by two such Justices, the delinquent is to be sent to the Goal without bail, except they put in sureties to perform the order, or appear at the next general Sessions of the Peace, *Dal.* 38.

‘If the Justices of the Peace do not agree upon an order, it is to be referred to the Bench, *Dal.* 25.

‘*Quadraginta septimana sunt legitimum tempus mulieribus constitutum*, Coke Instit. 123. *Dal.* 38.

‘The mother may be examined upon oath, concerning the reputed father, the time and other circumstances, *Dal.* 37.

‘By 7 *Fac. cap.* 4. the mother is to be committed to the house of correction for a year; but not till after delivery, and the child living, *Dal.* 38.

‘If she offend the second time, she is to be committed to the house of correction, and there remain till she find sureties for her good behaviour, and not to offend again: 7 *Fac. c.* 4. *Dal.* 38.

All Justices of Peace in their several limits, and in their Quarter Sessions, may do all things concerning the Statute 18 *El.* for Bastardy, which is limited to the Justices of Peace in several counties, 3 *Car. cap.* 4.

Reputed father to be bound to the good behaviour till the child be born, *Dal.* 37.

Vide plus House of Correction.

If the putative father shall either before or after the birth of the child, by practice of any other, convey himself away, or cause the mother to run or leave her child, such may be

be bound over to the next Goal-delivery or Quarter Sessions, *Dal.* 37.

Battery lawful, *vide* Riot, Assault, Breach of the Peace.

Bath and Buxton, *vide* Licence.

Bawdery.

Bawdery is not meerly a spiritual offence, but mixt, and foundeth somewhat against the Peace, *Lam.* 119. *Dal.* 193.

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a suspected house in the night, may take company with him, and if he finde them so, he may carry them to prison, or to a Justice, to be bound to their good behaviour, *Dal.* 193.

Resorters to bawdy-houses are to be bound to their good behaviour, *Dal. ibid.*

Keepers of bawdy-houses are to be bound to their good behaviour, *Dal. ibid.*

Beads, *vide* Agnus Dei.

Bear-wards, *vide* Licence.

Beer and Beer-brewers,
vide Victual'ers.

Beggars, *vide* Rogues and poor people.

Blockwood, *vide* Logwood.

Breach of the Peace, &c. 33

Bloudshed.

Presentment of bloudshed found in the Sheriffs Turn, and sent to the Justices of Peace, can neither be traversed before the Justices of Peace, nor at the Sheriffs Turn, *Lam. 543,*

Bonds, *vide* Recognizances.

Bowyers, *vide* Archery.

Brass and Pewter.

Brazier nor Pewterer may exchange or sell any Brass or Pewter, but in open Market or Fair, or in his house, unless upon request of the buyer, on pain of ten pounds for each offence, 19 H. 7. c. 6. 4 H. 8. 7. and inquireable at the Sessions, *Lam. 621.*

All working hollow wares of other lay metal, then according to the assize of the lay metal wrought in *London*, or not setting their seal on, lose the wares. Searchers of Brass and Pewter must be appointed by the Justices of Peace at Michaelmas Sessions, 19 H. 7. c. 6. 4 H. 8. c. 7. *Lam. 621.*

Breach of the Peace, or good behaviour.

What shall be accounted a breach of the Peace.

To threaten one to his face to beat him, at whose suit he was bound, *Lam. 115. Dal. 181. Cro. 136. b.* or in his absence, if he after lie in wait to do it, *ibid.*

To command or procure one to do any unlawful

34 Breach of the Peace, &c.

lawful against the peace, if it after be done

Menacings, affaires, assaults, injurious and violent handlings & entreatings, battery and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason, *Dal.* 181. *Lam.* 127.

A Farmer, Tenant, or Commoner, by threats or blows to repulse violence offered to his Land lord or Maior, *Lam.* 129. *Dal.* 189.

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance made for keeping of the Peace, *Dal.* 181. *Lam.* 114.

‘A Justice of Peace certifieth into the King’s Bench, that such a man broke the Peace in his presence; the party shall be put to his fine without any traverse, *Cro.* 132 a.

What not.

In his absence to threaten to beat him, whose suit he was bound to the Peace, *Dal.* 181.

Threats or moderate correction of the Master, Schoolmaster, Goaler, to those under their command, of Parents to the child within age, of the Lord to his villain, *Lam.* 127. *Dal.* 183.

To beat with rods a kinsman that is mad, to the end to reclaim him, *Dal. ibid.* *Lam.* 128.

Constable, Officer, or any of their company, to strike any for better execution of their office, *Dal.* 180. *Lam.* 128. By threats or blows to repulse violence offered to ones own person, wife, father, mother, child, mother, *Dal.* 184.

Preservation of his own goods, *Ibid.* *Lam.* 129.

29. and *Crom.* 136. b. affirm that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quare of it, and that a Master may onely with sword or staff defend him, *Dal.* 185. *Pax Reg.* 5.

To kill or hurt one at sence, play, tilt, tournament, or barriers in the Kings presence, or by his command, *Dal.* 184. *Lam.* 129.

To take ones goods wrongfully, if not from his person, *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his recognizance, *Cro.* 65. b. *nn.* 59. 8. 137. a.

So to take anothers Ward, *Dal.* 186. *Lam.* *ibid.* To disseise another of his Ward, *Dal.* *ibid.*

To trespass in anothers corn or grasse, *ibid.*

Trespass lieth at the Common Law, for threatning to beat one.

Vide plus Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his own person from beating, wounding, or killing: but if he may escape with his life, without being wounded, maimed, or hurt, it is not lawful, except he first flee as far as he can, *Dal.* 184. *Cro.* 137. a.

To take a dog of any kinde, or other thing of pleasure from the person of another, or in his presence with force or violence, amounteth to a breach of the Peace, *Dal.* 168.

Brewers *vide* Victuallers.

Bridges.

'By common right Bridges should be amended' by the whole County, for it is for the 'common ease of the County, *Cro.* 187. b. yet
if

‘ if any have fishings or profit in that river
 ‘ they are chargeable, *Cro. 186. b.*

A man voluntarily maketh or amendeth
 Bridge: he is not compellable to do the same
 again, unless he & his ancestors have used
 to do time out of mind, *Dal. 41. Cro. 186. a.*

‘ Where a man and his ancestors have used
 ‘ time out of mind to repair a Bridge, the
 ‘ King cannot acquit him, *Dal. 41.*

It being not known who, or what land
 chargeable with the repairing of a decayed
 Bridge, four Justices, one being Quorum, may
 tax the Inhabitants, and make Collectors and
 ‘ Overseers for repairing of it, and appoint
 ‘ Surveyors, and exact an account of them
 ‘ and if they refuse so to do, the said Justices
 ‘ may make out Process against them, by At-
 ‘ tachments, Precepts, or Warrants under their
 ‘ seals, returnable at the Quarter Sessions, and
 ‘ may allow reasonable costs to the surveyors
 ‘ and Collectors, 22 *H. 8. cap. 5. Dal. 40.*

‘ A man and his ancestors or a Corporation
 ‘ time out of mind used to make a Bridge
 ‘ though they did it freely at the first and not
 ‘ of right, it shall conclude the heirs & succes-
 ‘ sors *Dal. 41. Cro. 186. a. b. Prior of Stokes castle.*

Justice of Peace where a decayed Bridge is,
 may award Process into the County where
 the party or land chargeable is, *Dal. 40.*

A Bridge lying within a Corporation, the
 Hundred shall not be charged therewith. *Ex*
converso. Dal. 40, 41. Cro. 187. b.

A Bridge lying in two several Counties, ei-
 ther must repair his part, *Dal. 40. Cro. 187. b.*

‘ A common Bridge lying within a Fran-
 ‘ chise, they must repair it, *Cro. 187. b. Dal. 40.*

‘ A

‘ A man is to repair some arches at the end
 ‘ of a Bridge : if the Buttresses be decayed, he
 ‘ is to follow the course of the water, and to
 ‘ repair the high-way without leave of the
 ‘ owner of the land, and lay stones, &c. neces-
 ‘ sary, upon the adjoining land of another,
 ‘ *Cro. 186.b. Dal. 42.*

‘ He that is bound to repair a Bridge, must
 ‘ maintain the way at each end, *Cro. 186. b.*

Buckstalls.

One suspected to have offended against the
 statute, 19 H. 7. c. 11. of deer-haies, and buck-
 stalls, &c. is to be examined by two Justices
 at Quarter Sessions, & being convicted by his
 own examination only, is to be imprisoned
 till he find surety for the forfeiture, 19 H. 7. c.
 11. *Lam. 535, 630.* the tenth part whereof the
 Justices examining shall have, *ibid.*

Buggery.

The sin of Buggery with a man or beast is fe-
 lony, 25 H. 8. c. 6. 5. *El. c. 17. Lam. 227, 256. 421.*

Bull from Rome, *vide* Treasons.

Burglary.

Burglary is when one or more in the night-
 time do break a dwelling-house, or a Church,
 or the walls or gates of a Citty or walled
 Town, with an intent to do felony, albeir
 they carry away nothing, *Dal. 256. Lam. 258,*
423. Cro. 31.a. nu. 1.

The night is from sun-setting to sun-rising,
ibid. Lam. 259, 423, 424. Dal. 256.

What act shall make a burglary without entring into the house.

Putting back the leaf of a window, *Dal. ib. Lam. 262.*

Drawing the latch of a door, *Dal. ibid. Cro. 33. b. Lam. ibid.*

Turning the key being on the inside, *Cro. 31. b. Dal. ibid. Lam. 262.*

Breaking the glass-window, and hooking out of goods, *Lam. ibid.*

Making a hole in the wall, and shooting one within the house, *Dal. 256. Lam. 262. Cro. 31. b. nn. 7.*

The door being open, to put his hand over the threshold, and discharge a dag at any within, *Dal. ibid. Cro. 32. a. nn. 11. Lam. 263.*

They within cast out their money for fear, and they without carry it away, *Cro. 31. b. nn. 9. Lamb. 261, 262. Dal. 257.*

Without breaking the house.

To set foot over the threshold with a felonious intent, *Dal. 257. Cro. 32. a. nn. 13.*

To come down by a chimney, *ibid.*

To come in by help of a key, *Cro. 31. a. nn. 8. Lam. 262. Dal. 257.*

To enter the doors being open, & the owner flying to his chamber, to shove at the chamber door, *Dal. ib. Lam. 262. Cro. 32. b. nn. 25.*

If pretending to be robbed, by the help of the Constable for search they rob the owner, *ibid. Lam. 263. Dal. 257. Cro. 32. b. nn. 24.*

If upon conspiracy with a servant, the servant

vant openeth the door, and the thief entreth,
Dal. 257.

One entring, and the rest standing about
the house, or not far off, *ibid.* *Lam.* 264.

To enter under the threshold.

What place makes Burglary.

Publick, as Church, walls or gates of a City
or Town walled: Private, as a dwelling-
house, if any be within, *Dal.* 257. *Cro.* 33. a. nu.
32. *Lam.* 260, 261.

The family for part of the night is abroad,
and in the intrin the house is robbed, *Dal.*
258. *Cro.* 33. b. nu. 40.

A man hath two dwelling houses, & dwel-
leth sometimes at the one, sometimes at the
other, and hath servants at both, and the ser-
vants are abroad, in the night the house is
broken, *ibid.* *Cro.* 33. b. nu. 40. *Dal.* *ibid.*

To break a chamber in a Colledge or Inne
of Court, though no body is in the chamber,
Dal. 258. *Lam.* 261. *Cro.* 33. a. nu. 29.

Breaking a barn or stable near to a dwel-
ling house, to the intent to steal, *Dal.* *ibid.*
Cro. 32. *Lam.* 261.

Robbing a back house, *Dal.* *ibid.*

To enter to ravish a woman. Quære,
Dal. 259.

The Host of an Inne breaking into his
Guests chamber to rob him, *Dal.* 258.

What not.

Entring onely with intent to beat, *Dal.* 259.
Lam. 264.

Breaking, and departing without entring,
Lam.

Lam. 262. but it is felony, *ib.* *Lam.* 261. it is not burglary in one under 14 years of age, *Dal.* 259.

Nor in poor persons, that upon hunger break and steal under the value of 12 pence, *Dal.* 260.

Nor in natural fools, or *non compos mentis*, *ibid.*

Burning of houses.

Malicious burning of houses, being dwelling houses, or barn with corn in it, is felony, *Dal.* 273. *Lam.* 265, 424. *Cro.* 31. a. nu. 3.

Burning of an empty barn in the night feloniously, if it be nigh a dwelling house, *Dal.* 274. *Lam.* *ibid.*

All burning that proceedeth of a former burning that was malicious, is felony, *Lam.* 266.

• One intending to burn anothers house, fireth it, and part onely is burned and quenched, it is felony, *Dal.* 274.

• One shooteth unlawfully in a hand-gun, and the fire setterh another mans house on fire, and burneth it down, it is felony, *Dal.* 274.

Burning of a stack of corn feloniously *Dal.* 274.

Butchers.

Butcher gashing a hide whereby it is hurt loseth 20 pence, 1 *Jac.* c. 22. *Lam.* 462.

Butchers watring any hides, except in June, July, or August, lose 3 shill. 4 d. an hide, *ib.*

Butcher or any other killing calves to sell under

Calves and Kine.

41

under five weeks old, loseth 6 shill. 8 pence
a calf *Lam.* 453.

Or killing any weanling, bullock, steer, or
heifer, under the age of two years, *Lam.* 453.
24 H. 8. c. 9. *vide* Victuallers.

Butter and Cheese, *vide* Victuals.

Butts.

Inhabitants of a Town not continuing
their Butts as they ought, are to lose for eve-
ry three months 20 shill. 33. H. 8. c. 9. *Lam.*
481.

Buying and selling, *vide* Cattel.

Calves and Kine.

A Ny killing Calves to sell under five
weeks old, lose for every one 6 shillings
8 pence, 1 *Fac.* 22.

Any feeding in his own ground fit for milch-
Kine, wherein none hath common, above 120
Sheep more then for his own provision, must
raise one Calf for every 60 Sheep, or lose 20
shillings a moneth for each Calf, & keep one
milch-Cow for every ten Oxen, Runts, &c.
so fed, if he feed above twenty. And for every
two milch-Kine must rear one Calf yearly,
except it die, upon the like pain, 2 & 3 P. &
M.c. 3. 13. *El.c.* 25. 7 *Fac.c.* 8. *Lamb.* 453.

Offences against this statute are determi-
nable at the Quarter Sessions.

Captains.

Any Muster-masters taking reward for discharging any from service, lose ten times so much, or 20 li. 2 E. 6. c. 2. *Lamb.* 482, 483.

Captain, or others, having the charge of men for war, keeping back part of their pay, lose to their souldier treble so much as is not paid: or for licencing any to depart, lose ten times the gain, 2 E. 6. *ibid.*

Vide plus Travelling.

Castle, *vide* Felony.

Cattel.

Buyer of live Oxen, Runts, Steers, Kine, Calves, Sheep, Lambs, Kids and Goats, if he sell them within five weeks after, loseth the double, 5 E. 6. c. 1. *Lam.* 452 *Vide* Badgers.

Certificate.

Recognizance and release of the Peace both are to be certified at the next Quarter Sessions, 3 H. 7. ca. 1. but no pain by the Statute to the Justice if he do not, *Lam.* 111. *Dal.* 177. *Cro.* 139. 2. nu. 11.

One that is bound to the Peace, maketh default at the day of his appearance, the Recognizance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace, *Lam.* 589.

Sheriff must certifie to the Justices at the next Sessions, indictments lawfully found and taken.

taken at his turn or law-day, 1 E. 4. c. 2. the penalty is 40 pound.

Clark of the Crown must certifie the names of any that have been out-lawed of felony, or Clarks convicted or attainted upon the letter of a Justice of Peace, or lose 40 shillings 34 H. 8. c. 14.

Transcript of every attainder, out-lawry, or conviction had before the Justices of P. must be certified into the Kings Bench by the Clark of the Peace within 40 daies after the attainder if it be in Term; if not, within 20 daies after the beginning of the next Term, on pain of 40 shillings, 34 H. 8. c. 14. Clark of the Peace must certifie to the Ordinary a transcript of the Clarks convicted or attainted, 34 H. 8. cap. 14. Quære, because by 18 El. c. 6 no delivery to the Ordinary, Lam. 588.

Custos Rotulorum of the County where one is attainted as principal of felony, upon writing of the Justices of the Gaol-delivery or Oyer & Terminer of another County where one is accessory unto the other, must certifie what is done with the principal, 2 E. 6. c. 24. Lam. 588, 589.

Where the Justices are to receive indictments, and no power to proceed upon them, they must certifie them into the Kings Bench without *Certiorari*, Lam. 589.

Abjuration of a seditious sectary made in open Quarter Sessions, must be certified at the next Assizes unto the Justice of Assize, 35 E. 1. c. 1. Lam. 590.

Presentment that goods and cattles of one attainted of felony be in others hands; it is to be certified in the Kings Bench, or Exchequer Lam. 590.

Recognizance of an Alehouse-keeper must be certified at the next Quarter Sessions after the taking, or the Justice loseth five Marks, 5 E.6.c.25.

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificates of transcripts of Records of the Sessions into the Kings Bench, *vide* Clerks of the Peace.

Certificate of Riots, *vide* Riots.

Certificate of Certiorari, *vide* Certiorari.

Certificate of Examinations, *vide* Examinations.

Vide plus Recognizance.

Certiorari.

Certiorari is to remove indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously, *Lam.* 591.

A Certiorari issueth out of the Chancery, and the Records are removed thither, and sent thither by Mittimus to any other Court, *Lam.* 591.

Certiorari to remove matters of the Crown, need not contain the cause of the removing *Lam.* 514.

Certiorari into the Chancery, hath in *Cancellaria*, into the Kings Bench, *nobis mittatis*, *Dal.* 416. *Cro.* 132.3.

Certiorari may command either the Record it self, or the tenour of the Record, *Cro.* 131.b. *Lam.* 515. *Dal.* 416.

Certiorari is to be directed to the Justices, *Lam.* 515.

Justices of Peace ought upon Certiorari to remove.

remove the Record, though the party that brought the Certiorari sueth not after to have it removed, *Dal.* 416. *Cro.* 132. b. & 133. a. *La.* 516.

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken, *Dal.* 417. *Cro.* 132. b. 164. b. 167. b. *Lam.* 510.

A certificate of a Certiorari ought not to omit that which did authorize the Justices to make the record, neither ought they to certify more then the Certiorari warranteth them, *Lam.* 516.

If the Certiorari vary from the Record; the Justices need not to certify, *Cro.* 132. b. *Dal.* 416.

A Certiorari is to send up the Indictment of *A.* in which others are joyntly indicted; the Justices need not make certificate of any but of *A.* only, *Cro.* 132. a. *Lam.* 517. *Dal.* 416.

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before him, or a force recorded before him, *Dal.* 416. *Cro.* 132. b. 133. b. but not without Certiorari, if he be put out, *ibid.*

No bills of indictment, riot, forcible entry, assault, or battery found at the Quarter Sessions, shall be removed by Certiorari, unless it be delivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor, with such sureties as the Justices shall allow, to pay within one moneth after the conviction of the indicted to the prosecutor such costs and damages as the said Justices shall allow, otherwise the Justices to proceed to trial, 21 *Jac.* c. 8. *Dal.* 219, 220.

Vide plus, Certificate and Justices of Peace.

Challenge.

One indicted of felony, may challenge as many as he will, shewing cause: but without cause he may not challenge above twenty, 22 H. 8. c. 14 Lamb. 554. 28 H. 8. c. 1.

What shall be a good challenge of a Juror.

That he was an indictor of him, Lamb. 554.

That he hath no lands to clear yearly value of 40 shill. Lamb. 554.

In Cities and Borroughs, that he hath no goods moveables worth 40 pound, Lamb. *ibid.*

That he is not *Probus & Legalis*, as, if he be attainted of felony, forgery, perjury, &c. Lamb. *ibid.*

Champerty.

Champerty is when one for hope of having part of the thing in variance, moveth or causeth the suit to be moved at his own cost, and for it he is to be fined, 33. E. c. 1. Lamb. 441.

Chance-medly, *vide* Homicide.

Chastisement, *vide* Correction.

Church and Church-yard.

Maliciously to strike with a weapon in the Church or Church-yard, or to draw a weapon to that end, is loss of one of his ears, or having no ears, to be marked on his cheek with the letter I. 5 Ed. 6. c. 2. Lamb. 419.

To keep Fair or Market in the Church-yard, 17. Stat. Hen. 12. c. 1. 6. Ed. 1. c. 1.

Conviction of any upon the statute, 5 *Ed. 6. c. 4.* may be by the Justices of Peace at their Quarter Sessions, by verdict, testimony of two, or by confession, 5 *Ed. 6. c. 4.*

Execution of the forfeiture upon the stat. of striking in Church-yards, to be awarded by the Justices of Peace before whom the conviction, 5 *Ed. 6. c. 4.*

Church-Wardens.

Church-wardens and Constables, or one of them, or where none be, the Constable of the Hundred, must once every year present at the Quarter Sessions the monethly absence from Church of Popish Recusants, and the names of every of their children of 9 years old and above, abiding with their parents, & as near as they can the age of their children, and the names of such Recusants servants, 3 *Jac. c. 4. Lam. 437.* penalty 20 shill. *Vide Recusants.*

Churchwardens are to gather for the prisoners. *Vide Prisoners.*

Churchwardens and Overseers of the poor are yearly to make accompt to two Justices, whereof one ought to be of the Quorum, viz.

1. Of all sums received by them rated or not received.

2. Of such stock as they or any of their poor have in their hands, 43. *El. c. 2.*

3. What Apprentices they have put out.

4. What poor they have set to work or relieved.

5. What poor they have suffered to wander and beg.

6. If they have monethly met to take order

7 If they have assessed the inhabitants and occupiers of lands &c. in their Parish, and such as are of ability, with indifferency.

8 If they have endeavored to levy and gather such assessments, *Dal.* 96. Defaults in any the premisses is 20 shillings, *ibid.*

Two such Justices may make their warrants both to the present & subsequent Church-wardens and overseers to levy all sums and arrerages of every one that shall refuse to contribute according to the assessment. And in default of distress commit them to the Gaol till payment be made, *Dal.* 95.

Church-wardens and Overseers refusing to make a true accompt to the Justices of all such sums of money, or denying to pay the arrerages, to be committed to the Gaol without bail till accompt made, and the arrerages paid, to the new Overseers, *Dal.* 96.

Church-wardens and Constables yearly upon Tuesday or Wednesday in Easter week, must call together the Parishoners.

And first chuse Surveyors for the highways, *Dal.* 67. 3 P. & M. 8.

2 Appoint six daies for that purpose, to be before Midsummer next following, *Dal.* *ibid.*

3 Give notice of the said six daies openly in the Church the Sunday after Easter, *Dal.* *ibid.*

Clark of the Peace.

Clark of the Peace must be present at the Sessions, to read indictments, and inroll the acts of the Sessions, as also to draw Process, *Lam.* 393.

Clark of the Peace must record Proclamations for the rates of servants wages, and in-

the discharge of apprentices, 5 *El. c. 4. ib.*

He must keep the counterpane of the In-
enture of armour, 4 & 5 *P. & M. c. 2. Re-*
ealed by 1 *Fac. 25. circa finem.*

And the books of licences given to Badges
and Loaders of corn, 5 *El. c. 12. Lam. 393.*

And of those that are licensed to shoot in
guns, 2 *Ed. 6. c. 14.*

He must certifie into the Kings Bench tran-
scripts of indictments, outlawries, attainders,
and convictions had before the Justices of
Peace within the time limited, under the pain.
of 40 shill. 34 *H. 8. c. 14. Lam 588, & 593.*

Recognizance of the Peace is brought into
the *Custos Rotulorum*, and if the party grieved
will not sue it, the Clark of the Peace may call
upon it for the King, *Lam. 394. 2 H. 7. c. 1.*

The office of the Clark of the Peace is in
the gift of the *Custos Rotulorum*, 37 *H. 8. c. 1.*
Lam. 394.

What Records the Clark of the Peace is
bound to certifie.

Vide Certificate.

The Clark of the Peace his fees.

Vide Fees.

He must record presentments for not com-
ing to Church, & the certificate of not taking
the oath of Ileageance, 3 *Fac. ca. 4. Lam. 393.*

Clark of the Peace is Clark to the Justi-
ces, as the Statute 12 *R. 2. cap. 10. nameth*
him, and not Clark to the *Custos Rotulorum*
onely, *Lam. 394.*

Clark of the Peace may exercise his place
by himself, or by his deputy, sufficiently in-
structed in the Law, and admitted by the
Custos Rotulorum. Lam. ibid.

Clark

50 Clark of the Peace.

Clark of a Justice his fees, *v. Fees.*

Clark of the Crown, what Records he ought to certify, *vide Certificate.*

Clark of the Market.

Clark of the Market taking money to dispend with faults, riding with more then six horses, tarrying longer then is necessary, loseth for the first offence 100 shillings, for the second 10 pound, for the third 20 pound, 13. R. 2 c. 4. Clark of the Market may take no money for any bills. He ought to seal no Bushel but once. After the first sealing to take any thing is extortion, *Dial. 150.*

Clergy and Sanctuary.

One Justice of the Peace may take out of the Sanctuary him that is abjured thither, being indited of any offence punishable by death done after he is become a Sanctuary-man, and may commit him to the Goal in the County where the inditement is found, till he be tried, 22 H. 8. c. 14.

In what offences Clergy is not allowable.

Breaking a house by day, and taking away any thing to the value of 5 shillings, 39. El. c. 15. *Lam. 554., 565.*

Conjurors or witches, their aiders and

Clergy and Sanctuary. 51

counsellors, 5 *El. c. 16. Lam. 564. 1. but 1 Fac. c. 12. repealeth 5 El. c. 16.*

Receivers or aiders of Seminary Priests or Jesuites, 27 *El. c. 2. Lamb. 563.*

Conspiring to burn, take, or raze any Castle or Bulwork of the Kings, 14. *El. c. 1.*

Rape or Ravishment, } 18 *El. c. Lam. 564.*

Burglary,

Carnally abusing a woman within the age of ten years, *Lam. 564. 18 El. c. 6.*

Principal or accessory before the fact of taking away of a maid, widdow or wife, that hath lands or substance, &c. 3 *H. 7. c. 2. & 39. El. c. 9. Lam. ibid.*

Buggery, 5 *El. c. 17. Lam. 564.*

Murderer, *Lam. ibid.*

Poisoner of malice prepensed, *Lam. ibid.*

Robbing in day, or night a high-way, *Lam. ibid.*

Horse-stealer, *Lam. ibid.*

Church-robber, *Lam. ibid.*

Robbing of a house, any being in it, 564.

Robbing of booth or tent, any being in it, *Lam. ibid.*

Commander of petty-treason, *Lam. ibid.*

Commander of wilful murder, *Lam. ibid.*

So of robbery in any dwelling house, in or near any high-way, *Lam. 565.*

Stabbing one who hath no weapon drawn, nor struck first, if he die thereof within six moneths, 1 *ac. c. 8. Lam, 565.*

To burn any dwelling house or any part thereof, *Lam. ibid.*

To burn any barn having any corn in it, *Lam. 565. Lam. 565. 8.*

Repealed

Reporting false rumours against the King, devising or writing seditious or slanderous matter against the King, 23 *El.c.2.*

Souldiers departing without licence of their Captain, *Lam.565.*

Souldiers or Mariners which wander begging, 39. *El.c.17.*

Or exceed the time of their licence, *ibid.*

Or forge, or use forged licence, knowing it, *ibid.*

The second conviction for forging false deeds, 5 *El.c.Lam.566.*

Privily to take away goods or money above 12 pence from the person of another, 8 *El.c.4.Lam.566.*

Calling himself an Egyptian, or keeping them company contrary to the statutes, 1 & 2 *B. & M.c.4.5 El.c.20. Lam.566.*

A confined Recusant refuseth to abjure the Realm, or will not go, or returneth without licence, 35 *El.c.1,2.*

‘To acknowledge any fine, recovery, deed
‘inrolled, statute, recognizance, bail, or
‘judgement, in the name of another not
‘privy thereunto, 21 *Jac.c.26. Dal.276.*

To what persons Clergy is grantable.

To a bastard.

To bigamus.

To whom not grantable.

Women, *vide* Women.

One that hath had it formerly, except he be within holy Orders, 1 *E.6.c.12. Lam.563*

In what cases Clergy is allowable

Clergy shall be allowed in all cases, saving such

such as are mentioned 1 E. 6. c. 12. or especially
since that time taken away, Cro. 118. nu. 33.

Clergy shall be allowed but once, 4 H. 7. c.
13. Lam. 563. except he be within orders, Cro.
118. a. nu. 36.

A Woman convicted of felony above 12
pence, and under 10 shillings, wherein a man
may have his Clergy, shall be burnt in the
hand with T. and whipped, 21 Jac. c. 6.

Upon an attainder by outlawry, Parlia-
ment, standing mute, challenging perempto-
rily above twenty, where the statute taketh
it away upon conviction by verdict, vide Lam.
567. if Clergy shall be denied.

Justices of Peace may give Clergy to a felon,
if the Ordinary be present? but they cannot
fine the Ordinary for his absence, but must re-
prieve the prisoner Lam. 551. vide Ordinary.

If the Enditement doth not directly agree
with the words of the statute that taketh a-
way Clergy, the prisoner may have his Cler-
gy, Lam 566.

After conviction and Clergy allowed, and
the party burnt in the hand, he may be indi-
cated of another felony, Lam. 559. 18 Eliz.
cap. 6.

Where any man hath priviledge of Clergy
as a clerk convict, & also in all cases of felony
wherein the benefit of Clergy is restrained,
excepted, or taken away by statute (wilfull
murder & poisoning of malice prepensed ex-
cepted) any Lord of the Parliament, or Peer of
the Realm sitting in Parliament, shall, upon
his request and prayer, alledging that he is a
Lord or Peer of the Realm, though he cannot
read, without burning in the hand, loss of in-
heritance,

heritance, or corruption of blood, be adjudged for the first time onely as a Clerk convicted 1 *Ed. 6. c. 12.* but in all other cases, wherein Clergy is taken away by any statute since, 1 *E. 6.* he is in the same degree as a common person, *P. R. 213. vide Ordinary.*

Cloth.

Every Justice beyond Trent hath some power in searching out the deceit of straining or stretching those country cloths, 39 *El. c. 20.*

Any Justice of Peace next unto any Town corporate or City beyond Trent, is to joyn with the City or Town in appointing overseers for cloth, *ibid.*

Two Justices of Peace must appoint yearly Overseers of cloth sold in Towns not being corporate, and swear them to see execution of that part of the statute which is yet in force, 3 *E. 6. c. 2. Lam. 359. Dal. 42.*

One commanded by two Justices of the Peace to appear to be made an Overseer of keeping the statute of clothing, and without reasonable excuse refusing shall forfeit 40 shillings, one halfe to the two Justices, *Lam. ibid.*

Two Justices of Peace may dispose the money rising of deceitful cloth stretched, 39 *El. c. 20.*

Woollen cloth presented by a retailer thereof to two of the next Justices of Peace, as defective against this statute, and the statute 4 & 5 *P. 5 M. c. 5.* they shall cause the same to be cut into three equal parts, whereof one part to the King, one part to the presenter, and the third part to the Justices themselves, 5 *E. 6. c. 6. Lam. 359.*

Justices of Peace faultly in executing the statute against the deceitful stretching of Northern cloth, lose 5 pound, 39. *Ed. c. 20.*

Clothier must set his seal of lead to the cloth to declare the length, to be tried by water, or be fined, 3 *Ed. 6. c. 2. Lam. 469.*

Cloth is not to be stretched above a yard and a halfe in length, and halfe a quarter in breadth, nor shrink more in wetting, on pain of 40 shillings, *ibid.*

Browns, Blews, Pewks, Tawnies, and Violets, must be perfectly boiled, grained, or maddered upon the woad, and shot with good cork or orchard, otherwise the dier loseth 20 shillings for every offence, 3 *Ed. 6. c. 2. Lam. 469.*

Wooll for Russlets, Marbles, Graies, Baies, or for hats or caps, must be perfectly woaded, boiled, and maddered, or lose 20 shillings every cloth or wooll for a cloth, *ibid.*

Dying with Brazill, thereby to make a false colour, is loss of 20 shillings a time, 3 *Ed. 6. c. 2. Lam. 469.*

Putting flax, chalk, starch, or other deceitful things upon any cloth, except Devonshire and Cornwall straits, loseth 40 shillings a time, *Lam. ibid.*

Selling cloth by less measure then after the true contents by the yard and inch, loseth six shillings eight pence a yard, *ibid.*

Putting to sale cloth pressed to be used in England, Wales, or Ireland loseth the cloth or value, *ibid.*

Refusing to be searchers of cloth or neglecting to search once a quarter, loseth as the offenders, *ibid.*

Inter.

56 Commission of the Peace.

Interrupting the search of cloth is loss of twenty pound, *ibid.*

Kentish cloth above six pound price, must contain betwixt 28 and 30 yards in length being wet, and 7 quarters broad within the lists, and being well dressed, must weigh 76 pound, or lose 20 shillings for want of length and breadth, and so much for wanting of four pound of the weight, 5 *Ed. 6. c. 6. Lam. 470. Sec. now 4 Jac. c. 2.*

Deceit in linnen cloth, whereby it is become worse for good use, is loss of cloth, fine and imprisonment for a moneth, 1 *El. c. 12. Lam. 471.*

Offences against the statute concerning the stretching of Northern clothes, to be presented by the Overseers at the next Quarter Sessions after the offence, and there to be heard and determined, 39 *El. c. 20.*

Offences of the Justices of Peace in neglecting their duty, by not executing of the statute of deceitful stretching of Northern clothes, to be heard and determined by Justices of Assize, 39 *El. c. 20.*

Commission of the Peace.

The commission of the Peace is determinable at the Pr. pleasure, either by express word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriff *Lam 66, 67, 68, &c.*

‘ If Just: sit by commission and do not adjourn the Sessions, the commission is void.
‘ *Brook Commission, 12. Cro. 188. a.*

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourn the same, *L. 71.*

Commission of the Peace. 57

A new commission of the Peace *hac vice tan-*
am, will determine the old, *Lam.* 68.

A commission of the same kind in the same
limits to other commissioners without word
of discharge, is a revocation of the former by
implication, *Cro.* 189. a. *Lam.* 67. *Dal.* 11.

A proper Justice is made within a special
liberty, without words of prohibition, the
Justices of the shire may meddle there, *Lam.*
68, 69.

The making of a new commission is no de-
termination of the old, till it be read or pro-
claimed at some Session, or in a full County,
or at the Assizes, *Dal.* 11. *Lam.* 69.

The old commission determining by a new,
no process or suit hanging before the old
commissioners is discontinued thereby, *Dal.*
12. *Cro.* 189. a. *Lam.* 69.

Accession of a higher title taketh not way
the authority of a Justice of Peace, *Dal.* 9. *Cro.*
188. a. *Lam.* 70.

A new commission to here and determine
felonies, determineth the old commission of
the Peace but not concerning the Peace, *Lam.*
72. *Brook Commission* 8.

A Justice of Peace, in making justification
by virtue of his office, needeth not to shew
the commission of the Peace, because the
keeping thereof belongeth to the *Castos Rotu-*
lorum, *Lam.* 387, 388. *Cro.* 120. b. *ww.* 13.

' By 17 R. 2. c. 10. in every commission of
' the Peace, two men of law (amongst others)
' are to be assigned, *viz.* to proceed to the de-
' liverance of felons, *Dal.* 50.

' Two were joynt commissioners, and it is
' presented that one onely sat, and fined the
' Countrey;

58 Commission of the Peace.

‘ Countrey ; and it was held void. But if one
 ‘ sit, and it is recorded that it is done before
 ‘ both, it is good. So of Justices of Peace,
 Cro. 121. a. nu. 19. & 189 a. for averment
 ‘ shall not be taken against the act of the Ju-
 ‘ stices or Commissioners, Cro. 189. a.

‘ A Justice cannot be made by writ but by
 ‘ commission, but may be discharged by writ,
 ‘ which is in nature of a *Superfedeas*, *Brook*
Commis. nu. 18

‘ If the Justices in Fire, after Proclamati-
 ‘ on made, do come into the Country, and
 ‘ sit there by vertue of their authority, then
 ‘ ceaseth the power of the Commissioners of
 ‘ Peace. And so likewise, if the Kings Bench
 ‘ should remove into the County, *Lam. 71.*
 ‘ vide *Cro. 188 b.* & 189. a. *Brook Commis. nu.*
 ‘ 18. But *Lambert* maketh a *Quare*, for that
 ‘ Justices of *Nisi prius* do ordinarily bring a
 ‘ Commission of Oyer and Determiner, *Lam. 71.*
 ‘ and yet no determination of the Commission
 ‘ of Peace.

‘ And *Brook Commis. 8.* and *Cro. 188. b.* *Tu*
 ‘ *noyel Commission de oyer & terminer felonies de-*
 ‘ *termine le anciens Com. del P. quant al Oyer, &c.*
 ‘ *felonies, mes nemy quant al Peacé. Et issint vides*
 ‘ *Commis. determine in parz, & remain pur le*
 ‘ *remnant.*

Commons.

Commons in Forests and elsewhere must be
 driven yearly within 15 daies after Michael-
 mas by the owner or officers, on pain of 40
 shillings a time, 32 H.8.c.13. *Lam. 483.*

Vide plus Horses.

Common

Common Prayer.

If any Minister have refused to use the Common Prayer, or to minister the Sacraments according to the Book of Common Prayer, in such order and form as is mentioned in the said Book, or wilfully standing in the same, have used any other form in open prayer, or in administration of the Sacraments, or spoken any thing in derogation of the said B. or any part thereof, for the first offence it is loss of his spirituall living for a year, and imprisonment for six moneths without bail: for the second, deprivation and imprisonment for a year: for the third, deprivation and imprisonment all his life, 1 *El.* 2. 23 *El.c.1. Law 417.*

Any having in play, song, or rhyme, or by any open word, spoken in derogation of the Book of Common Prayer or any thing therein contained, or having caused or maintained any Minister to say any other Common Prayer, or minister Sacraments in other manner, or interrupting any Minister to say open prayer, or administer the Sacraments according to the said Book, he loseth 100 Marks, or six moneths imprisonment without Bail for the first offence: and for the second, 400 Marks, or twelve moneths imprisonment: and for the third, all his goods, and imprisonment for his life, *ibid.*

Concealment, *vide* Jurors.

Confession.

After a free confession of an indictment,
and

and submission to fine in an action at the parties suit, for the same trespass, he shall plead Not guilty: otherwise of a confession *sub modo*, as when he putteth himself *gratia Regis*, *Lam.* 530.

Quare whether if he once make a fine, shall not be estopped to plead Not guilty. Also whether the Justice of Peace may drive the party either to an absolute confession, or his traverse, *ibid.*

The voluntary confession of an offender against the statute, 1 Jac. c. 9. 4 Jac. c. 5. before a Justice of Peace is a conviction, and after confession his oath is sufficient proof against any other offending at the same time, 21 Jac. c. 7. *Dal.* 26.

Conjuration.

Conjuration of wicked spirits is felony 5 El. c. 16. *Lam.* 227.

Vide plus Witchcraft, 1 Jac. c. 12.

Conservers of the Peace.

Coroners are Conservers of the Peace, and may in some cases imprison, *Lam.* 395.

Constables are Conservers of the Peace within their limits, *Dal.* 2. *Lam.* 14.

Constables.

Every Constable at the Common law before the statute 3 H. 7. c. 3. & 1 & 2 P. & M. c. 13. might bail one suspected of felony by obligation, or take surety of the Peace by obligation, or commit him to prison that made an affray, till he found sureties, *Lam.* 15.

Constables or other Officers may lay no hands

hands on two intending to fight, till weapons, drawn, or offer of blow *Lam.* 132.

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them, *Lam.* 132, 133.

Constable or Officer presented at the Sessions for not endeavouring to part an affray, being present, shall deeply be fined, *Lam.* 133.

Not so if he be told of it being absent, *Dal.* 33. *at quare contra*, *Cro.* 146. b.

Two fighting in a house, the doors being shut, the Officers may break open the doors to see the peace kept, *Lam.* 133.

Constable taking an affrayer must imprison him in the stocks, not in his house; and that till he may provide to carry him to the Goal, *Lam.* *ibid.* or to a Justice of Peace, *Lam.* 133. *Dal.* 33, 35.

Constable or Justice if need be, may command aid of the Kings people for pacifying an affray, *Lam.* 134.

Constable or Officer may defend himself, and apprehend and imprison the party that shall make an affray upon him, *Lam.* *ibid.* *Dal.* 35. *Cro.* 147. a.

One Justice of Peace may command that two Constables be chosen in each Hundred, *Lam.* 186.

Vide plus Affray, Arrest, Rogues.

High-Constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders, *Dal.* 3. *Cook* 11, 43, 44.

Chusing of High-Constables useth to be at the Quarter Sessions; if out of Sessions, by the
D major

major part of Justices of that division where they dwell ; and use to be sworn at the Sessions, or by warrant from the Sessions, *Dal. 48*
Vide plus Prison.

Conventicles.

Those are sometimes called Conventicles wherein many do impart with others the meaning to kill a man, or to take another part in all things, *Lam. 173.*

Champerty also, maintenance, conspiracies confederacies, & giving of liveries, other than to menial servants, and officers, be contained under the word Conventicles, *Lam. ibid.*

Conies, *vide* Hunting. Corn.

Certificate of one Justice of Peace, joyned with the Customer of the place, of unlading and selling of corn, grain, or cattel carried by water from one place to another of the Realm, unto the Customer and Controller of the place where the same was imbarked, sufficient upon the statute of forestalling, *5 Ed. 6. c. 14. 13 El. c. 25.*

One having sufficient corn, buying seed without bringing so much as he buyeth, to sell the same day as the Market goeth, lost double, *5 Ed. 6. c. 14. Lam. 491.*

V. de plus Transportation.

Cutter and carriers away of corn
Vide Hedge-breakers.

Coroner

Coroners.

Coroners ought to certify their inquisitions at the general Goal-delivery, and not at the Sessions, 1. & 2 P. & M. 13. Lam. 395.

Coroners being parties to the exigents, and Judges of the outlawry, ought to be present at the Sessions, *ibid.*

Coroners are Conservers of the Peace, and may in some cases commit men to prison, *ib.*

Coroners may be convicted of offence against the statute of 1 H.8.c.7. by examination of witnesses, and touching extortion or not executing their offices, before a Justice of Peace, Cro. 130. b. Lam. 434.

Coroners fees, *vide* Fees.

Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unless he lay four acres of his own free-hold inheritance lying near to the said cottage, to be continually manured therewithall so long as that cottage shall be inhabited, forfeiteth ten pounds; except in a City, corporate or market Town, or ancient Borough, or being the dwelling-house of workers in minerals, coal-mines, quarries of stone or slate, makers of brick, tile, lime, or coal, not being above a mile from the works and onely used for the habitation of such workmen, or for sailors, or men of manual occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper

of forrests, chase, warren or park; or cottage for a common herdsman or shepherd of any town, or wherein any poor, lame, sick, aged, or impotent person shall dwell; or hath been decreed to continue for a dwelling by the Justices of Assise or of the Peace in open Assises or Quarter Sessions, 31 *El. c. 7.* 39 *El. cap. 3.* 43. *El. c. 2. Lam. 476.* 35 *El. c. 6.* for continuing the cottage 40 shill. a moneth.

None to maintain or uphold any cottage, not having four acres to it, except as before, *ibid.*

Owner or occupier of a cottage must not suffer more households then one to dwell in a cottage, 31 *El. c. 7.* except it be by order of the Justices at the Quarter Sessions, with leave of the Lord of the waste, at the charge of the Parish, Hundred, or County, 39 *El. c. 3.* 43 *El. c. 2. Lam. 611.* Offences against the stat. of cottages and inmates, are to be heard and determined at the Quarter Sessions, 31 *El. c. 7. Lam. 614.* and a decree may be made at the Quarter Sessions for continuance of a cottage that hath not four acres of land, *ibid.*

‘A Decree may be made at the Quarter Sessions for the continuance of a cottage that hath not four acres of land. And the Justices may enquire, hear and determine of cottages and inmates against the statute of 31 *El. c. 7. Lam. 614.*

County.

A Justice of Peace in one County pursuing a felon into another County where he is taken, he shall be committed to the Goal of the County where he was taken, *D. 1. 297, 298.*

Cozeners

Cross-bows and Hand-guns. 65

Cozeners and Cozenage.

Any falsly and deceitfully getting into his possession money or goods of other mens, by colour of false privy tokens of counterfeit letters, and convicted thereof at the Quarter Sessions by examination of witnesses, shall suffer any corporal punishment except death, 33 H. 8. c. 1. Cro. 83. a. 130. b. Dal. 48. Lam. 442, 535, 569, 690.

Two Justices of Peace, one being of the Quorum, may bind over to the next Sessions any such suspected person, or may imprison or bail them until the next general Sessions, Dal. 48.

One Justice of Peace, (as it seemeth) may binds Cheaters to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction, Dal. 48.

Crosses, *vide Agnus Dei.*

Cross-bows and Hand-guns:

Every person may attach an offender against the statute 33 H. 8. c. 6, and carry him to the next Justice of Peace in the same County, Dal. 65.

The Justice upon due consideration may send the offender to the Goal, till he have paid the penalty of the statute of 33 H. 8. c. 6. 10. li.

The particulars of the said Statute.

1. None under an 100 pounds *per annum* may shoot in, or keep gun, dag, pistol, cross-bow, or stone-bow.

66 Cross-bows and Hand-guns.

2. No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100 pounds *per annum* may seize the gun, & must break it or lose 40 shillings, if he break it not within twenty daies, *Lam.* 296. 480. but may keep the cross-bow or stone-bow, *Dal.* 65.

3. No person not having an 100 pounds *per annum*, may carry in his journey any gun charged, or bow bent, but onely in time and service of war, or going to the musters.

4. None may shoot in a gun near to a market Town, but in defence of his house or person, or at a But.

5. The master may not command the servant to shoot, except at a But or Bank of earth, or in warre.

Exceptions out of the Statute.

1. Shooting at a But or Bank of earth by serving-men, whose masters are inabled by statute.

2. Inhabitants of market Towns.

3. Dwellers alone, or near the Sea-side.

4. Gun makers or Gun-sellers.

5. Those that have placards may shoot according to their placards, *Dal.* 65, 66.

Any under the value of 100 pounds *per annum*, licensed to shoot in Cross-bow or Hand-gun, is to present his name to the next Justice, by him to be presented and recorded at the next Quarter Sessions, or else the Justice to lose 20 shillings, 2 *Ed.* 6. c. 14 *Lam.* 301. *Quere* if this be now in use.

Any licensed at Quarter-Sessions to shoot in

Hand-gun or birding-piece, for Hawks-
neat is to shoot only at fowl not prohibited,
and to be bound in 20 li. 1 *Fac. c. 27.*

Any two Justices of Peace may commit to
the Goal for three moneths any that shoot
with gun or bow at any Partridge, Pheasant,
house-Dove, Mallard, or at such fowl, or at
any Hare, 1 *Fac. c. 27.*

If any person not having lands, &c. of the
yearly value of 40 li. or not worth in goods
200 li. shall use any gun, bow, or cross-bow,
to kill any Deer or Conies (except such per-
son shall have any ground inclosed; used for
the keeping of any Deer or Conies, &c. or
be Keepers or Warreners) any person ha-
ving in lands 100 li. by year in fee or for
life, may take from such offender such Guns,
Bows, or Cross-bows, and keep them to his
own use, 3 *Fac. c. 13. Dal. 65.*

Curriers, *vide* Leather.

Customer, *vide* Corn.

Custos Rotulorum.

Custos Rotulorum hath the custody of the
Records and of the Commission, and ought to
see that they be brought to the Sessions, *Lam*
387.

Custos Rotulorum is alwayes a Justice of the
Quorum, *Lam. 387.*

Custos Rotulorum alone cannot summon a
Sessions, seeing that he hath no more autho-
rity in that behalf then any of his fellows
hath, *Lam. 382.*

Taking of the goods of another to the value of 12 d. from his person into his own possession, without assault or fear, is felony without Clergy, 8 *El. c. 4. Lam.* 270. *Dal.* 262. and *Lam.* 422, 566.

But it will not amount to felony unto death, unless the thing taken be of the value of twelve pence, *Lam.* 270. *Dal.* *Quare.*

The thief must have an actual possession of the thing severed from the person of the owner, *Lam.* 271. *Dal.* 262. *Cro.* 35. a. n. 17.

Cutting out of tongues.

Cutting out of tongues, and putting out of eyes is felony, if it be done of set purpose, 5 *H. 4. c. 5. Lam.* 420.

Cutting of a Pond head.

Destroying of the head or damme of any pond, moat, stew, or several pit wherein fishes are put by the owner thereof, or wrongfully fishing in any of the same, to the intent to take away the fish against the owners will, 5 *El. c. 21. Lam.* 446. See 3 *Fac. c. 13.* he is to suffer imprisonment, and to be bound to his good behaviour for seven years.

Deer and Deer-hayes.

Justices of Peace may not receive an indictment for killing a Hart proclaimed, for the jurisdiction of it belongeth to the Justices of the forrest, 21 *H. 7. c. 30. Lam.* 505.

One

Divine Service.

69,

One convicted of unlawful taking or killing of Deer, must pay treble damages to the party, three months imprisonment, and after to remain there till he put in sureties for the good behaviour for seven years, 5 *El. c. 21.*
3 *Fac. c. 13. Lam. 571.*

To sell, or buy to sell any Deer, Hare, Partridge, or Pheasant, except house-Partridge or Pheasant, or brought from beyond the Seas, loseth for every Deer 40 shill. every Hare or Partridge 10 shill. and every Pheasant 20 shill.
1 *Fac. c. 27.*

Vide plus Hunting, and Buckstalls.

Demurrer.

If one indicted demurreth upon the evidences, the Justices ought to record it. *La. 539.*

Deputy.

A Judge cannot make a Deputy, *Lam. 64.*

Divine Service.

Any above the age of sixteen years, that repaireth not faithfully and diligently to his Parish Church or Chappel accustomed, or (upon some reasonable lett) to some usual place; where Common Prayer is to be used upon every Sunday and other Holidiaies, and hath not there orderly and soberly abiden during the time of such Common Prayer, Preaching, or other service of God, loseth 12 pence for every offence, to be levied by the Churchwardens to the use of the poor of the said Parish, and to be punished by the censures of the Church, 1 *El. c. 2.*

It is lawful for one Justice of Peace in the
D. 5 limit,

limit, division, or liberty where the offender dwelleth, in not coming to Church, according to 1 *El. c. 2.* upon proof of default, by confession of the party or oath of witnesses, to call the party before him; and for want of sufficient excuse & proof thereof to the satisfaction of the said Justice, the said Justice may give his warrant to the Church-warden of the said Parish under his hand and seal to levy 12 pence for every default by distress, and in default thereof to commit the offender to prison till payment made, 3 *Fac. c. 4.*

Vide plus Recusants, and Sunday.

Dogs, *vide* Hunting, & Partridges

Drovers, *vide* Badgers.

Dier, *vide* Cloth.

Drunkennes.

Any Justice of Peace, upon his own view, confession of the party, or proof of one witness upon oath, hath power to convince any person of drunkennes, 21 *Fac. 7.*

Any within six moneths after the offence committed, lawfully convicted of drunkennes, loseth 5 shill. to be paid after conviction to the Church-wardens of the Parish where the offence shall be committed; and refusing and neglecting to pay the same, to be, by warrant from the Just. convicting, levied on his goods; if he be unable, to be set into the stocks six hours: and upon conviction of the second offence to be bound with sureties

ten pound to his good behaviour; 4 *Fac. c. 5.*
and for want of sureties to be sent to the Goal.

If the officer charged is negligent in levying
or in correcting, he loseth 10 shillings, to be
levied and disposed as the penalty it self,
4 *Fac. c. 5.*

Church-wardens to be accountable to the
use of the poor for the penalties by them re-
ceived upon the statute of drunkennes, *ibid.*

Constables, Church-wardens and Tithing-
men, in their oaths for their office are to
swear to present offences against the statute
of drunkennes, 4 *Fac. 5.*

Offences against the statute of drunkennes
to be inquired after, and presented before the
Justices of Assise, or Justices of Peace at their
Sessions, and proceeded upon ordinary in-
dictment, *ibid.*

Offenders against the statute of drunken-
ness not to be twice punished for the same
offence, *ibid.*

Ecclesiastical causes and persons.

Ecclesiastical persons are subject to arrest
for the Peace, unless they be attendant on
Divine service, *Lam. 93. Dal. 166.*
Vide plus Treason.

Eggs of wild-fowl.

Eggs of any wild-fowl usually eaten, taken
from the place where they were layed, or de-
stroyed betwixt the first of *March* & the last
of *June*, one years imprisonment, and lose af-
ter

ter a rate for each egge, *viz.* " Egges of crane
 or bustard 20d. bittern, heron or shovellack
 8 d. mallard, teal, and other wild-fowl, one
 peny, 25 *H.8.c.11.3 E.6.c.7. Lam.453.*

To take away the egges of any hawk out
 of the woods or ground of any other person,
 three months imprisonment, and bound to
 his good behaviour for seven years, 5 *El.c.21*
Lam.446.

To take or cause to be taken upon his own
 or other mens grounds, the egges of any fal-
 con, goshawk, lanner, or swan, one year and
 a daies imprisonment and fine, 11 *H.7.cap.17.*
Lam. ibid.

Taker or willing destroyer of egges of
 Partridge, Pheasant, or Swan, upon conviction
 by confession, or oath of two witnesses before
 two Justices of Peace, where the offence or ap-
 prehension is, to be imprisoned three months,
 unless he pay to the Church-wardens of the
 Parish in one of the places to the use of the
 poor 20 shillings 1 *Jac.c.27.*

Vide plus Partridges, Pheasants, and Fowlers.

Egyptians.

One Justice of Peace may within one
 moneth after the arrival seize all the goods
 of any outlandish persons, calling themselves
 Egyptians, that shall come into the Realm, or
 company with them, or disguise themselves
 like them, and keep to his own use the one
 moiety accounting in the Exchequer for the
 other, restoring to them again their goods
 that prove by two witnesses that they were
 craftily or feloniously stolen from them, up-
 on pain of forfeiture of double the value to
 the

the prover, 22 H. 8. c. 10 Dal. 49. Lam. 195, 228, 371. 427.

After the moneth it is felony, and then they shall have the whole, 1 & 2 Ph. & Ma. 4. *Quare*, whether the stat. 22 H. 8. be still in force, or altered by the statute of 1 & 2 Ph. & Ma. c. 4,

Enbezeling of Records, *vide* Records.
Embracer, *vide* Maintainer.

Enditements.

'Enditement is the verdict of Jurors that be charged to enquire of the offence that is presented to them, Lam. 486.

All enditements ought to contain certainty, and therefore five principal things be requisite in presentments, Lam. 487.

1. The name, surname, and addition of the party endited.

2. The year, the day, and place in which the offence was done.

3. The name of the person to whom the offence was done.

4. The name and value of the thing in which the offence was committed.

5. The manner of the fact, and the nature of the offence; as the manner of the treason, murder, felony, or trespass, Lam. 487.

Enditement of the accessory to felony, must contain the name of the principal, Lam. 488.

Misnamer in an Enditement shall not be made good by an *alijs dictus*, Lam. 490.

Where the name of the party offended cannot be known, it may be *cujusdam ignoti*, because of the Kings advantage thereby by forfeiture, Lam. 494.

Any

Any certainty whereby the day and year may be known, is sufficient, *Lam. 491.*

An offence done before midnight, must be supposed the day before; if after, then the day after, *Lam. 492.*

One striketh one day, whereon he languisheth, and died on another; the Enditement must suppose the last day, on which he died, *Lam. 491.*

Enditement supposing the fact done a day not come, is not good, *Lam. 492.*

Enditement or presentment for an omission as *A.* hath not scoured such a sewer, needs not to set down day nor year, *Lam. 492.*

Enditement supposing an offence done at two severall times, not good, *Lam. 492.*

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no such place, the Enditement is void, *9 H.5.c.1. 18 H.6.c.12. Lam. 493.*

If the stroke or poisoning be in one county, and the death in another county, the Enditement in the county where the death is shall be good, *2 & 3 Ed.6.c.24. Lam. 493.*

Certainty of the person to whom the offence is done, Lam. 494.

The goods of a Parson of a Church, *Bona Rectoris, Lam. 468.*

The goods of the Church, *Bona parochianorum in custodia Gardianorum, ib.*

The goods of Major and Communalty, and the

he Major dieth before the Enditement, *bona communitalis*. *Quere*, because they have no such name of Corporation.

Goods taken in a mans life-time, and he maketh executor and dieth *bona testatoris*.

Goods taken after his death, *Testatoris in custodia Executorum*.

Goods hanging over a Tomb, *Executoris*. A Grave-stone, *bona Ecclesie*.

My goods are taken by a trespassor, and taken from him again, the Enditement shall be *bona* of him that had the last possession, *Lam.* 496.

Of the owner in the keeping of the bail, where they were taken from the Bailly, *Lam.* 496.

Bona capella in custodia, or *bona domus*, or *Ecclesia tempore vacationis*, is good, *Lam. ib.*

The name of the thing must be comprised, *Lam. ibid.*

Bona & catalla in trespass or felony is not good.

If dead things it may be *bona & catalla*, expressing the names thereof in certainty.

If living things, it shall not say *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The value is to be declared in felony to make it appear petty larceny; in trespass to aggravate the fault.

Enditement of things *fera natura*, as Deer, Hares, Partridges, or Pheasants, is not good, unless they be taken in a Park or a Warren that be liberties, *Lam.* 469, 497.

Charters, their value cannot be esteemed, *ibid.*

It must be said *Pretii*, of living things, *Lam.* 497.

So of dead things in the singular number,
ibid.

So of things that go by weight and measure, *Lam. 497.*

So of coin not curreant; *ibid.*

It must be said, *ad valentiam*, of dead things in the plural number, not going by weight and measure, *Lam. 497.*

Coin counterfeited, *ibid.*

Where the number ought to be expressed, as of the taking of Doves in a Dove-house, or young Hawks in a wood, there it must be *pretii* or *ad valentiam*, *Lam. 497.*

Coin curreant carrieth his value with it, *ib.*

The very manner of the fact, and the nature of the offence ought to be mentioned, *Lam. 498.*

Nature of the offence.

Treason must have *Proditoric.*

Murder *Murdravit*, which implieth *ex malitia premeditata*, *Lam. 500. Cro. 101. a. 103. b.*

Burglary, *Burglariter.*

Felony, *felonicè*, *ib.* so petty larceny, *felonicè.*
In rape *felonicè rapuit*, *Lam. 510.*

Furatus seemeth good without *felonicè.*

In felony, *cepit* alone, or *abduxit*, or *asportavit* is not good, *Lam. 510.* but *cepit & abduxit.*

In trespass or felony, the words *contra pacem* must be used, *Lam. 502.*

In forcible entry, *vi & armis* be needless, *ib.*

Upon a statute *contra formam statuti in hujusmodi casu editi & provis.* *ibid.*

Where many Statutes concern one offence,

contra

contra formam diversorum statutorum.

Where after an acquital one shall be endited for the same felony.

Where the first inditement was void for inefficiency of matter of felony, *Lam. 556.*

Trial in a wrong County, *ibid.*

Misprision of the party that should bring the action.

Where the first Enditement was as principal, the second Enditement as accessory to the same felony after the fact, *Lam. 557.*

Where he shall not be again endited.

Where the Enditement was good.

Though it were by another name, if he be known by both, *Lam. 555.*

Though it suppose the same felony done in another year, *Lam. 556.*

Though the Process was erroneous, *ibid.*

Enditement at the Sheriffs Turn lawfully taken, must be taken by the Justices, and by them received, 1 *E. 4 cap. 2. Lim. 504.*

No Enditement can be taken, nor enquiry made, but before two Justices, one to be of the Quorum, *Lam. 48.*

Enditement upon penal statute, whereof the King is only to reap the forfeiture, must be within two years after the offence.

And where a common person is, it must be within one year, except the statute do otherwise direct, *Lam. 487.*

Constable presents a fault at the Sessions, which belongeth to his office, which is allowed.

lowed by the Inquest, it is good : Otherwise
it shall not serve for an Enditement, *Crom.*
123.b.

A man may be indited for the King upon
any penal statute, *Cro. 101.a. nu. 3. 109.a. nu.*

3.

If there be two villages in one parish, the
indicted shall be named of such a village in
parochia de A. and not of the parish onely.
But if there be but one village there, the
name of the parish onely, or the name of the
village onely, or of the village in such a pa-
rish is sufficient. And so if there be divers
hamlets, *Cro. 102.a. nu. 16.*

In an Enditement, *Si sit de pecunia nume-*
rata, exprimere debet numerum & genus pecu-
næ: si massa rudis, tum valorem: si formata,
tum qualitatem & pretium: si sit panis, tum
colorem, pretium, & numerum ulnarum: si
animal, tum genus, pilum, & pretium: & quid
felonice cepit illud contra pacem, Cro. 103.a. nu.
35. *Stam. 81.*

Enquiry.

Justices of Peace may onely enquire, and
can proceed no further, as in

1. Certain offences against the Supremacy,
23 *El.c. 1.*

2. Treasons, and misprisions of treason
made by the 23 *El.c. 1.*

3. Offences against the statute of false ru-
mours against the King, 23 *El.c. 1.*

Enquiry of a forcible entry, *vide*

Forcible entry,

Enquiry

Enquiry by presentment, *vide*
Presentment.

Enquiry by examination, *vide*
Examination.

Enquiry by information, *vide*
information.

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dieth thereof within a year and a day; the Constable shall make a fine to the value of his goods, but it is no felony, *Lam. 134.*

To suffer a felon wilfully to escape, is felony; but a negligent escape is onely to be fined, *1 R. 3, c. 3. Lam. 440. Dal. 276.*

Wilfull escape of one arrested for larceny, manslaughter *per infortunium*, *se defendendo* is not felony; if the act were not felony at the time of the escape, *Lam. 230. Dal. 278. Crom. 39. a. nu. c.*

Wilfull escape by the gaoler or keeper of a felon, is felony in the gaoler, not in the felon: if the escape be caused by a stranger, it is felony, *Lam. 229. Dal. 278.*

Escape suffered by him that receiveth a known felon, is no felony, *Lam. 230. Dal. ib.* but shall be accessory, for that he was not arrested, *Cro. 39. a. nu. 4.*

Vide plus Prisoners.

A prisoner under arrest onely escaping, the escape must first be presented, before he that suffered the escape shall answer it, *Dal. 278.*

A Justice sendeth for a felon out of the gaol

and freeth him without bail ; it is felony in the Justice, *Dal. ibid.*

A Justice *pro defectu scientia* baileth one notailable, it is but a negligent escape, *Cro. 39. b. nu. 4. Dal. 279.*

Offender upon his examination before a Justice confesseth the felony, who letteth him go without commitment or bail; it is a voluntary escape, and so felony in the Justice, *Cro. 39. a. nu. 7. 44. a. Dal. 304.*

A Town not walled must answer the escape of a manslayer in the day time, 1 *Cro. 40. b. nu. 1. Dal. 299.*

The hundred must answer for a man slain out of the Town, and for insufficiency the County shall be charged; *Dal. ibid.*

Gaoler or other officer suffereth his prisoner to go abroad for a time; though the prisoner return as he was prescribed, or let his prisoner go by bail or baston; it is a negligent escape, and fineable. But *quare*, for prisoners ought to be kept *in salva & arcta custodia*, *Dal. 277. Cro. 39. b. nu. 5.*

A Constable voluntarily suffereth a thief to drown himselfe, this is felony in the Constable. But if the thief (without the assent of the Constable) kill, hang, or drown himselfe, it is a negligent escape in the Constable, *Dal. 276.*

Voluntarily escape of one arrested, or committed for felony, is felony in the Gaoler; if for treason, it is treason; if for trespass, it is trespass, *Dal. 278.*

Escheators other then those of a City or Borough, that takes upon him the office, not having lands in the Shire of twenty pounds *per annum*, or for life at least, or that hath sold or let to farm the office, or made a deputy for whom he will not answer, and whose name he doth not certifie within 20 daies into the Exchequer, shall be fined 40 pound, 2.E. 4. c.9. *Lam.* 429.

Escheator taking for execution of any writ in any County above forty shillings, or forty shillings where the land is not held *incapite*, shall be fined forty pound, 23 H.6.c.17. *Lam.* 30.

Escheator taking above 15 shillings for finding an office not exceeding five pounds a year, loseth forty pound, 33 H. 8. cap. 22. *Lam.* 430.

Evesdroppers.

Evesdroppers which shall by night evesdrop mens houses are to be bound to the good behaviour, *Dal.* 191.

Evidences

Justices of the Peace must binde over informers for felony to appear and give evidence against the felon at the next general Goal-delivery, *Dal.* 49.

Justices of the Peace must binde such as declare any thing material to prove the felony, to appear at the next Goal delivery, and give evidence, *Dal.* 303.

If he which giveth evidence of felony to a Just. of Peace against another, will not be bound to give evidence at the Assises, he shall

' shall be committed, or bound to his good
' behaviour, *Cro.* 102. b. *nn.* 26. *Dal.* 25.

Examination taken by a J. of P. of one county, may be certified into another county, and there read, and given in evidence, *Dal.* 303.

Estreats.

Estreats are the extracts of fines, forfeitures, and amerciaments made by the Clerk of the Peace by indentures, the one delivered to the Sheriff, the other to the Barons of the Exchequer, *Lam.* 581.

Estreats of the penalty for shooting in guns are to be recorded and sent into the Exchequer by the Justice that had the examination of the matter, *Lamb.* 297.

Sheriff or his minister that shall levy any of the Kings debts, without shewing the party the estreats under the Exchequer seal shall be fined and pay treble damages to the party, 42 E. 3 c. 9. 7 H. 4. c. 3. *Lam.* 432.

He that estreateth issues of others then such who were chargeable or charged, loseth five Marks to the King, and as much to the party, 27 El. c. 7. *Lam.* 432.

Examination.

Felon brought before a Justice, must be examined before he be committed to Prison, & the information of those that bring him must be put in writing within two daies after, and the party bound to appear & give evidence at the next Goal-delivery, 2 & 3 P. & M. c. 10. *Lam.* 212. *Dal.* 49, 303.

Before the statute, the examination of a f-

on was not warranted at the Common law ;
 for *nemo tenetur prodere seipsum* : but the of-
 fender shall not be examined upon oath,
Dal. 307.

Circumstances observable in examination
 of a felon, *Lam.* 218. *Dal.* 303. *Cro.* 98. a.

In what offences conviction shall
 be by examination, *vide* the
 several offences.

Conviction cannot be by examination one-
 ly, but where the statute giveth it, either by
 referring it to the discretion of the Justices,
 or specially limiting it, *Lam.* 534.

Where the statutes limit conviction to be
 by examination general, a Just. of Peace may
 examine as well the offenders as witnesses,
Lam. 535.

Where the examination of a Justice of
 Peace is the conviction of the party, it ought
 to be upon oath: but when it is but to inform
 the Jury upon that indictment, it needs not,
ibid. *Lam.* 536.

Examination of witnesses is to be taken as
 well against as for the King, *Dal.* 308. but
quære whether it may be upon oath, which
 maketh against the King.

Confession of an offender before a Justice
 of Peace is not conviction, except he confess
 the same again upon his trial or arraignment,
Dal. 311.

Justice of Peace may examine upon oath
 him that informeth against a felon: for the
 informer may die before the assizes, & then
 the

‘ the information without oath is not
 ‘ such validity, *Dal.* 307. *Lam.* 215. *Cro.* 19
 ‘ a. *nn.* 5.

Extolling forein power, *vide*
 Treason.

Extortion.

Ordinary, Archdeacon, Official, Sheriff,
 Escheator, Coroner, Under-Sheriff, Bailiff,
 Goaler, or other officer, that by colour of
 office taketh more then his fee, or any fee
 reward for expedition, or unlawfully exact
 eth any oath or other undue thing, *Lam.*
 434, &c.

Any thing taken *colore officii*, is extortion
 but *virtute officii* is allowable, *Cro.* 57. b. *nn.* 5.

The Sheriff or Goaler taking any thing
 a Constable for bringing a felon to the Goal
 it is extortion, 4 *E.* 3. c. 10. *Cro.* 57.
nn. 5.

‘ The Goaler takes 8 pence of one in prison
 ‘ to let him have liberty, easement or favour
 ‘ it is extortion, *Cro.* 59. a. *nn.* 26.

If the Ordinary or his minister take any
 thing to allow a Schoolmaster to teach
 children, 23 *El.* c. 1. *Cro.* 58. a. *nn.* 13.

‘ If the Ordinary take ought for letters of
 ‘ administration or probates of Will, where
 ‘ the goods amount not to above 5 li. wherein
 ‘ the writer shall have 6 d. only; or if they
 ‘ be above 5 li. and not 40 li. the Ordinary
 ‘ 2 s. 6 d. and the writer 12. and if above 40
 ‘ li. the Ordinary 2 s. 6 d. and scribe 2 s. 6 d.
 ‘ or 1 d. for every 10 lines ten inches long, at
 ‘ the writers choice, *Cro.* 61. *nn.* 52. 21 *H.* 8.
 c. 6.

c. 6. it is extortion, and the Ordinary forfeiteth 10 li.

Vide Fees

The Marshal detaining a Prisoner after he is discharged by the Court, for any thing due to him but his fees, *Cro. ibid.*

The Ordinary citing a lay person to appear in the Spiritual Court, to depose there as a witness, *Cro. 59. b. nu. 35, 36, 37. & 60. nu. 44, 46, 48. & 231. a. & Philiz. F. P. fol penul.* it is extortion.

Vide plus Fees.

A man prescribeth to have four pence of every one whose beasts are taken in his ground, damage fasant being impounded, and to make amends to him at his will, it is extortion if he take it, *Cro. 58. nu. 18.*

To take any thing for a mortuary, contrary to the statute 21 H. 8. c. 6. where the goods come not to twenty nobles besides debts, or for married woman or infant, or one that keeps no house, or wayfaring man, or any that is not resident where he died, is extortion, *Cro. 59. a. nu. 7. 21 H. 8. c. 6.*

To take above 3 s. 4 d. for a mortuary, when the goods amount to 10 marks and under 30 li. or above 6 shillings 8 pence, where the goods are 30 pounds and under 40 pounds; or above 10 shillings, where the goods are above 40 pounds, the debts payed, is extortion, *Cro. 59. a. nu. 18. 21 H. 8. c. 6.*

Fairs and Markets.

HE that keepeth a Fair or Market in a Church-yard shall be fined *Stat. Wm. 13 E. 1. c. 6. Lam. 419.*

False imprisonment, *vide* Arrest.

False tokens, *vide* Cozeners.

Fees.

The Sheriff shall have upon arrest by Bill, Writ, or Warrant, 20 pence; the Bailiff that maketh the arrest, 4 pence; the Goaler, if he be committed, 4 pence; & for the obligation 4 pence and no more, on pain of 40 pounds, *23 H. 6. c. 10. Cro. 58. b. nu. 18. 176. b. nu. 19.*

Bailiffs of liberties are to have like fees as the Sheriffs and their ministers have out of liberties, and like punishment for extortion, *27 H. 8. c. 24. Lam. 434. Cro. ibid.*

Clark of the Peace to be fined.

For taking above 12d. for inrolling a bargain and sale of lands not exceeding 40 shill. a year, or 2 shill. 6 pence if it do exceed 40 shill. a year, *27 H. 8. c. 16.* and the Justice of Peace the like for taking above the said sum in the said cases, *Cro. 59. a. Lam. 436.*

For taking above 12 pence for a recognisance of one that taketh a rogue into his service for a year, *14 El. c. 5. Lam. ibid.*

For taking above 2 shill. for a licence and recognisance of a Badger, Drover Leader, or Kidder,

Kidder, and registering the license of them both, 5 *El. c. 12. ibid.*

For taking above 12 d. for a licence and recognisance to shoot Hawks-meat, 1 *Jac. c. 27.*

Clark of a Justice of Peace to be fined for taking above 12 pence for a recognisance of an Alehouse-keeper, 5 *E. 6. c. 29. Lam. 436.*

Coroner refusing to do his office of one slain by misadventure without fees, loseth 40 shillings, 1 *H. 8 c. 7. Lam. 434.*

Coroner taking above 13 shill. 4 pence for doing his office of one slain and murdered, of the goods of the slayer and murtherer; if he have none, of the town where he was slain in the day, and was suffered to escape, 3 *H. 7. c. 1. Lam. ibid.*

Maiores to have for sealing.

Busshels and other measures, a peny.

Weights, viz. a hundred weight, 1 peny; half a hundred, a halfpenny; less a farthing; and taking above, they lose 40 shill. 7. *H. 7. c. 3. 11. H. 7. c. 4. Lam. 437.*

Parson, Vicar, or Curate taking above 4 pence for entring into the Church-book licence to eat flesh on fish-daies, 5 *El. c. 5.*

Or above 2 pence for the registering a Testimonial of any servant going from one place to another, 5 *El. c. 4. Lam. 435.*

Ordinary or his scribe or register that hath taken more for the probate of a testament or letters of administration then 6 d. for the scribe for writing the probate of the testament that shall be brought written in parchment, and 6 d. for the administration where the goods be not above 5 pound, if above 5 li.

not above 40 pound, then 2 shillings 6 pence for the Ordinary, & 12 pence for the scribe; if above 40 pound, 2 shillings 6 pence for the Ordinary, & 2 shill. 6 pence for the scribe, or 1 peny for every 10 lines 10 inches in length, at the scribes election; and the like for every copy of a testament or inventory, or else after the rate of the lines as before, loseth 10 li. and so much as is taken, to the party, 21 H. 8. c. 6. Cro. 61. a. nu. 52. Lam. 434.

Escheators fees, *vide* Escheators.

Receiver, Treasurer, or Minister of the King that taketh of any that hath fee or pension of the King, other fee then is given by ancient laws and statutes, *viz.* 4 pence for payment of every summe, forfeiteth 6 shillings 8 pence, 33 H. 8. c. 39. 7 E. 6. c. 1. Cro. 58. a. nu. 9.

Taking above 4 pence for impounding one distrels, loseth 5 pound to the party grieved, besides such mony as he shall take above the summe of four pence, 1 & 2 P. & M. c. 12. *ibid.*

• A man attainted of trespass cometh in *gratis*, and findeth surety for his fine, he shall pay no fees to the Sheriff or Goaler, Cro. 176. a. nu. 6. so of him that is indicted before Justice of Peace, and is committed till he pay his fine.

• The officer is to take nothing of him against whom process is granted to come before a Justice of Peace to finde surety for the Peace, Cro. 176. 1. nu. 8.

Fees for a Justice of Peace are (*ut dicitur*) Cro. 175. a. nu. 9.

• For a recognizance for the peace, 2 s.

• For a recognizance to bail a prisoner, 2 s.

• For

‘ For a *Super sedens* of the peace, 2 s.

‘ For a warrant of the Peace under seal, 2s.

‘ For a release of the Peace, 2 s.

‘ For a warrant which concerneth not the Peace, 4 d.

‘ For the recognizance of an Alehouse-keeper, 12 d. *Cro. nu.* 10. 5 E. 6. c. 25.

‘ *Vide plus Dal.* 385.

Felo de se.

A man that kills himself, either with a meditated hatred against his own life, or out of distraction or other humour, is *felo de se*, and forfeiteth his goods real and personal, chattels to the King, and debts due upon specialty, and also upon simple contract or without specialty, *Cro.* 4. 95. a. *Dal.* 240.

‘ Two fighting, the one of them falleth on the ground, & draweth his knife, the other falling upon him, doth also fall on the knife and is slain, he is in a sort *felo de se*, *Dal.* 274.

‘ *Cro.* 28. a. nu. 7. *Pax. reg.* 122. b. *Stat.* 16. a.

An infant, or *non Compos mentis*, killing himself, doth not forfeit, but a lunatick doth, *Dal. ibid. Lam.* 247.

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented & found of record, *Dal. ibid.*

He forfeiteth no lands, nor is his blood corrupted, *Dal. ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body as being cast into the sea, or secretly buried; the Justices of P. may inquire thereof, and a presentment before them intituleth the King to his goods, *Dal. ibid. Cro.* 5. 110. b.

Felony.

Felonies are ei- } Common law,
ther by the } Statute law.

By the Common law, all kind of homicide not warranted, Burglary, Theft, Burning of houses Rescous, and Escapes, *Dal.* 238.

Vide their several titles.

Felonies by Statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realm, or any sworn to the Kings Council, or the Steward, Treasurer, or Controller of the Kings household, 3 *H.* 7. c. 14. *Dal.* 275.

Breaking of Prison by one being therein for felony, or a prisoner for felony, 1 *E.* 2. *de prisonam frangent*, *Dal. ibid.*

And if he escape going to the Goal, *Cromp.* 40. b.

If under arrest for felony or suspicion, whether in the Goal or out, it is breaking of prison though he be not indicted of felony, *Cro.* 38. a. *nn.* 1 *P.R.* 147.

A stranger breaketh the prison, or openeth the stocks, or makes rescous of one imprisoned or arrested for felony, who escapeth, it is felony in them both, *Dal.* 275. *Cro.* 38. a. *nn.* 1.

Quare, if a stranger disturb the arresting of a felon, *Dal. ibid.* *Fitz. Just. P. fol.* 114. *Lam.* 229.

Rescuing a Prisoner going to execution is felony, *Dal. ibid.*

Goaler, Constable, or other having a prisoner under arrest for felony, voluntarily suffereth him to escape, it is felony only in him that suffereth the escape, *Dal. ibid.* *Lam.* 229.

If the prisoner escape by negligence of his keeper,

keeper it is felony onely in the prisoner, *Dal.*
ibid.

Escape before arrest is no felony, but the of-
ficer may be endited and fined, *Dal.* 276. *Lam.*
230. *Cro.* 39. a. n. 5.

Buggery with mankind or beast.

Burning of houses or stacks of corn.

Congregations and confederacies holden
by Masons.

Cutting out of tongues, or putting out eyes.

Cutting Powdike, or bank in Marsh-land.

Conjuration or invocation of evil spirits,

1 Jac. 12.

Consultation with an evil spirit, &c. *Vide* 1

Jac. 12.

Embezeling the Kings ordnance, armour,
&c. to the value of 20 shill. though at sever-
al times, 31 *El.* 4. *Dal.* 287.

Embezeling of any record,

Writ &c. 8 *H.* 6. c. 12 *Dal.* *ibid.*

Rasing of a record is fine-
able at the Kings will, &c.

8 *R.* 2. c. 4.

*These two be-
long not to lu-
stices of the P.*

Forging of evidences, &c. the second time,

5 *El.* c. 14.

Gaoler enforcing his Prisoner to become an
approver.

Hawks embezelled, and not brought to the
Sheriff.

Hawks concealed, or stolen from the ow-
ner.

Hunting Deer or Conies in the night, and
upon examination concealing the offence, or
disobeying the arrest for such offence.

Taking a tame beast or other thing in a
park by way of robbery.

Marrying a second husband or wife, the first living, 1 Jac.c.11.

Multiplication of gold or silver.

Infected with the plague, going into company contrary to command, 1 Jac.c.31.

Willful poisoning, if the party die within a year and a day after.

To receive, relieve or maintain Popish Priests.

Recusants refusing to abjure, or return after departure.

Purveyor taking for the Kings house any thing above twelve pence.

1. Without warrant under the great seal, *vide Dal.* 284.

2. Buying any thing in any other manner then is contained in their warrant.

3. Taking any carriage in any other manner then is comprised in their commission.

4. Shall carry away any thing against the owners will, without paying or agreeing for the same.

5. Shall not make his provision & purveyance by the testimony and apprizement of the Constable and four neighbours sworn, if the purveyor and owner cannot agree, and shall not deliver Tales or Indentures sealed with his seal touching the same.

6. Or shall take more victuales or carriages then he shall deliver unto the Kings house.

7. Or take sheep in wool betwixt Easter and Midsummer at small prices, or more then be sufficient for the Kings house, and carry them to his own, and shear them.

In every of these cases it seemeth to be felony in such purveyor, their deputy and servants.

A Chater of any subject or officer, taking any thing against the owners consent, & not paying presently, 36 E.3.c.6. 7 R. 2.c.8. 23 H.6.c.14. Dal.287.Cro.48.a.

Incorrigible Rogues banished the Realm, and returning without licence, 39 El.c.4.

Robbing house, barn, or stable in the day, to the value of 5 shillings though no body be within, 39 El.c.15. no Clergy.

Robbing any house by day or by night, any person being therein, and thereby put in fear: *ibid.* without Clergy.

Robbing any person in part of his dwelling any of his household being within, *ibid.* without Clergy..

To rob any Booth in Fair or Market, any person thereto belonging being within sleeping or waking, *ibid.* sans Clergy..

Servant (other then an apprentice) to whom money, goods or chattles, &c. are delivered to keep by master or mistress to the value of forty shill. going away therewith, or converting them to his own use, to the intent to sell the same, or defraud his master or mistress, 21 H.8.cap.7.5 El.cap.13. Dal.264..

Souldiers going out of the Realm to serve a forein Prince, not having first taken the oath of allegiance, 3 Jac.c.4. Dal.284.

AGentleman, or of higher degree, Captain, or other Officer in camp, going to serve a foreiner before he is bound with two sureties to the King, not to be reconciled to the Pope, &c. nor to make nor consent to any conspiracy against the King, 3 Jac.c.4..

Souldiers having taken prest-money not going with their Captain; or being in service,
E.5

vice departing without licence, 18 *H.6.c.19*
Cook 6.27.7.H.7.c.2.3 H.8.c.5.

Mariners and Gunners taking prest-money to serve the King, and departing without licence, 5 *El.c.5.*

Souldiers and Mariners which settle not themselves to some good courle of life, but wander idly, 39 *El.c.17.*

Souldiers and Mariners landing, and not having a Testimonial from some Justice of Peace near their landing, *ibid.*

2. Or exceeding the time limited wilfully fourteen daies. *Vide 43 El.c.3.* that they shall be punished as Rogues.

3. Or forge, or have forged Testimonial; knowing it to be forged.

4. Or being retained in service after arraignment, doth depart within the year without the Masters licence, 39 *El.c.17.*

In all these former cases, see the stat. 43 *El.c.3.* That Souldiers and Mariners begging or counterfeiting a Certificate from their Captain, &c. shall be adjudged and punished as Rogues, *Dal.285. Vide Rogues.*

Transporting live sheep, the second offence is felony, 8. *El.c.3.*

Ravishing a woman with force, though consenting afterward, 13 *E.1.3.W.2.18.El.c.6.*

All abettors in rape are principals, *Dal.289.Cro.47.b.*

To ravish a harlot against her will is rape, *ibid.*

To take any maid, widow, or wife having lands or goods, or being heir apparent to her ancestor, against her will, unlawfully.

And to receive any so taken knowing thereof,

thereof, or to procure and abet the same, 3 *H.*
7. c. 2. *Dal. Cro. ibid.*

To abuse a woman carnally under 10 years
of age, 18 *El. c. 6.*

To take a mans wife with her husbands
goods against her will, or her husbands, 13 *E.*
1. 34. *West. 2. Stamf. 94. Dal. 290. Cro. 35. a.*
nu. 2.

Feloniously to take goods out of any Church
or Chappel, *Lam. 420.*

A woman delivered of a bastard, doth by
drowning or secret burying thereof by her
self or other conceal the death thereof, so
that it may not come to light: if it were dead
born or alive, it is murder in the mother, ex-
cept she can prove by one witness that the
child was born dead, 21 *Fac. c. 27. Dal. 290.*

To acknowledge any fine, recovery, deed
inrolled, flat. recog. bail or judgement in the
name of another not privy to the same, is fe-
lony without clergy, 21 *Fac. c. 25. Dal. 284.*

' Felony done in one Kings daies may be
' tried in another Kingstime, *cro. 37. a. nu. 31.*
' *Dal. 297.*

' A felony is done in one county, and the
' felon flieth into another, and is there taken
' he is to be committed to the gaol of the
' county where he was taken, & be removed
' by writ to the gaol of the county where the
' felony was done, *Dal. 298.*

' For stealing goods in one county, and car-
' rying them into another county, the felon
' may be indicted in either county. But for
' robbery the indictment must be in the
' county where the robbery was, *Dal. 298.*
' *Bro. cor. 140. indict. 26.*

' One

‘ One stealeth stolen goods, the owner
‘ may indict the first or the second *Dal.* 298.

‘ Any man may prosecute for stealing *bona
‘ ignoti*, *Dal. ibid.*

‘ If the owner will not charge the felon,
‘ any other (after proclamation made, *If any
‘ will inform for the King*) may safely inform,
‘ indict and give evidence, *Dal.* 298. But

‘ A Justice of Peace hearing of any that can
‘ inform, may send for him, examine him,
‘ and bind him to give evidence, *Dal.* 298.

Felony of his own goods, *vide Theft.*

Ferrets, *vide Hunting.*

Fewell.

One Justice of P. may set on the Pillory,
in the next Market town to the place of of-
fence, any person convicted of breaking the
assise of fewel, and not able to pay the forfei-
ture; there to be at eleven of the clock on
the Market-day, with a billet or faggot bound
to some part of his body. *Quere*, whether one
Justice may convict him alone, 7 E. 6. cap 7.
Lam. 196.

Fines.

Fine taketh his name of the Latine *finis*, for
that it maketh an end with the King for the
imprisonment laid upon the offender, for the
offence committed against him, *Lam.* 374.

Upon payment of the fine, or upon pledges
found by a recognizance to pay it, the offen-
der ought to be delivered, *Lam. ibid.*

The assessment of fine belongeth to the Ju-
stices before whom the conviction is lawfully
had, *Lam.* 576.

discretion, and to deliver the party, *Lam.* 574.

Fines of Rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler,
vide Assise of Bread.

Fish.

Stealers of fish out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three moneths imprisonment, and to the party grieved his treble damages. *5 El.* 21. *Lam.* 446. See *3 Jac.* 13.

If any cast nets into waters, by which the fry of fish may be taken, or take Salmons betwixt the nativity of Mary and S. Martin, or young Salmons betwixt the midst of April & Midsummer, one Just. may punish them for the first offence, by burning their nets and engines; for the second, by 3 moneths imprisonment; for the third, by one years imprisonment; & for any of them, by fine at the discretion of the Just. *17. R. 2. c. 9. Lam.* 190, 454, 576.

Forfeiture upon the stat. *3 Jac. c. 12.* where any offence is committed, in destroying the spawn or brood of sea-fish, may be levied by distress & sale of the offenders goods, by warrant from one Just. of P. to the Constables or Church-wardens, *3 Jac. c. 12.* the forfeiture given is 10 s. the one moiety to the poor, & the other to the person that shall sue for the same.

He that shall by preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any daies now usually observed for fish-daies,

for necessity of salvation of souls, or is the service of God, otherwise then other publick laws be, shall be punished as spreaders of false news are and ought, &c. 5 *El.c.5.1 Jac.c.29*, *Lam.442.*

Fish-days.

Any, except aged, sick, with child, or licensed, eating flesh in Lent, or on fish-days, loseth 20 shill. and one moneths imprisonment, 5 *El.c.5.27 El.c.11.Lamb.458.35 Eliz.ap.7.1 Jac.c.29.*

Taverners, Inn-keepers, common Tabling-house, Tipler, or Alehouse keeper, offending against the statutes, 5 *El.c.5.& 1 Jac.c.29.* for killing, dressing, and eating of flesh, is to lose the flesh, and the penalty of 5 *El.c.5.* which is 3 pounds 1 *Jac.c.29 Lam.358.*

Forfeiture upon the Statute 1 *Jac.c.29* for eating of flesh, except such as be taken by the Justices of Peace, Majors, Bailiffs, head-officers, or Constables, are to be equally divided betwixt the King and the Informer, 1 *Jac.c.29.* expired.

Licence granted to sick persons to eat flesh on fish daies, shall be no warrant for them to eat beef, mutton, veal, pork, or bacon, 1 *Jac.c.29.* expired.

Butcher or other, though licensed, killing in Lent to sell any ox, beef, hog, calf, or mutton, except three daies next before Easter, or oxen or beef for victualling of ships, loseth the meat or value, 1 *Jac.c.29.* expired.

Justice of Peace, or head-officers of corporations, or Constables of Towns, may in lent search Victuallers houses suspected of dressing
flesh;

flesh; and finding any flesh, beef, hog, calf, or mutton, may seize on it, and give it to the poor, *Fac. c. 29. EXP.*

‘Bishop of the Diocese, Parson, Vicar, or Curate of the Parish where one is sick, may grant licence for eating of flesh, which must be signed with the hand of the Bishop, Parson, &c. and endure no longer then the sickness, *5 El. c. 5.*

‘Any person granting licence without need loseth five marks, and the licence is void, *ibid.*

Flax.

Forfeiture due to the Informer upon the statute of flax and hemp to be levied by what Process the Justice will, *24 H. 8. c. 4. Lam. 584.* but *24 H. 8. c. 4.* is repealed by *35 El. c. 7.*

Flesh, *vide* Fish-daics.

Forein power, *vide* Treason.

Forein plea, *vide* Trial.

Force.

Every trespass in judgement of law is a force, and the action may be, *quare vi & armis*, *Dal. 199. Lam. 141.*

That which is properly *Manu forti*, or force, is either *Manu forti*, or *Multitudine*.

Manu forti, is violence offered to the person of another by deed or word, *Dal. 199.*

By deed, as actual violence, or to be furnished with offensive weapons not usually born, *ibid.*

Any

Any thing which a man taketh in his hand
to throw it at another, may be said to be ar-
mour, Cro. 74. b.

Multitudine, where there be two or three
in a company, or more, Dal. 199.

Who shall be said to enter with force.

Forcible entry must be an actual entry,
Dal. 199.

If one or more come weaponed, especially
with weapons unufally worn, & violently en-
ter into an house or land, Lam. 142. Dal. 199.

Much more being entred, if he or they offer
violence, or fear of harm to any in possession,
or drive any out of possession, Dal. *ibid.* Lam.
142.

Many come to do a force, and one only
useth force, all are guilty, Dal. 204. Lam. 143.

To enter peaceably, and forcibly to put out
another, Dal. *ibid.* Lam. *ibid.*

To enter peaceably, and after to offer vio-
lence, threatnings, or fear of harm to one in
possession, with intent to get him out, though
he get him not out, Dal. *ibid.* Lam. *ibid.*

Entring peaceably, & saying they will hold,
although they die for it, Lam. 146 Dal. 200.

To enter peaceably with weapons (not
usually born by them) to house open, or
grounds, Dal. *ibid.*

The Master entring with moe servants then
usually, *ibid.*

A trespass made *manu forti*, or *cum multitu-*
dine, though it be to cut or take way ano-
ther mans cern, grass, or goods, or fell or crop
wood, or to do any other trespass, though the
party be not put out of possession, yet it seem-
eth

eth forcible entry punishable by the statute, but otherwise if the entry be peaceable, yet if it is disseising with force, *Lam. 143. Dal. 200.*

To enter peaceably, and after entry, by force or violence to cut corn, grass, wood &c. or carry away anothers goods, is force, *Dal. 200. Cro. 7c. a.*

To distrain for rent due or not due with force, doth countervail a force, *Dal. ibid. Lam. 144.*

Divers enter where the entry is not lawful and all save one demean themselves peaceably, and one only entreth with force, or after entry useth force, it is forcible entry in all, *Cro. 22. a. nu. 15. 24. b. nu. 43. 34. b. nu. 19. Lam. 143. Dal. 217.*

In all these cases of trespass, only the Justice of Peace may, as it seemeth, remove the force, and upon view imprison and fine, *Dal. 200, 202.* and upon view the Justice may instantly commit the offender, and record the force, *Co. l. 8. f. 120.*

Forcible entry by words.

To enter peaceably, and then to offer by threatening to kill the dissesee if he re-enters, *Dal. 200.*

What is not force.

To enter by fair means, his entry being lawful, and perswade them within to come out, and the door being open, or shut by the law, to enter without multitude, or offensive weapons, or other violence, *Dal. 201.*

To enter peaceably and quietly, getting other out, and quietly to hold it, *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them, *Lam. 145.*

To take a man being out of his house, and imprison him, and in the mean time to send another peaceably to enter, is no force, *Lam. 146. Dal. 201.*

He that only agreeth to a forcible entry made to his use, is only disseisor, *Dal. 204.*

What shall be said a forcible detainer.

Forcible detainer is of lands and tenements not of the person, *Lam. 146. Dal. 201.*

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been had for three years, *Dal. ibid.*

To deny a Justice of Peace to enter (upon supposal of a forcible detainer) is forcible detainer, though it be but by one person, and no weapons shewed, *Dal. ibid. P.R. 41. Lam. 145. Cro. 70. b. nn. 40.*

If the Justice enter, and findeth any armed, or any armour or unusual weapons lying by them, or finde more then the ordinary family, *Lam. 145. Dal. 202.*

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in an house adjoyning ready to assail the enterers, *Lam. 145. Dal. 202.*

The disseisor forestalleth the way of the disseised with force, so that he dare not come near, *Dal. 202. Lam. 145. Cro. 69. b. nn. 26.*

To keep cattel by force where he hath no common, the Justice may imprison and fine, but

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but not make restitution, *Dal. ibid. Cr. 2. P. R. 39.*

To detain a house mortgaged by force from the mortgager is forcible detainer, *Dal. 202.*

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseised if he come again, *Dal. 202. Lam. 146.*

It seemeth to amount to a forcible detainer to threaten to maim, beat, or do bodily hurt to the disseised if he come again, *Dal. ibid.* for that death may ensue upon such beating or hurt.

What is no forcible detainer.

One entreth peaceably into a house, and finding armour or weapons, doth not remove them, *Lam. 145.*

What is not forceable detainer by word.

To threaten to burn his house or spoile his goods, to deny to open the doors, to deny to go out, *Dal. 202.*

What is forcible detainer of rent.

The tenant resisteth so forcibly, that the owner cannot distrain for his rent, nor use his common of pasture, *Dal. 203. Lam. 146. Cr. 2. P. R. 39.*

The tennant forestalleth the way by force and arms, or threatneth him that hath the rent or common, that he dareth not distrain or use his common, *ibid.*

The tenant maketh rescuous of the distress
with force and arms, *Dal. ibid. Cro. 69. a.*
26.

In these cases of rent or common, the Justice
remove the force, record it upon view, im-
prison and fine, but can award no restitution,
ibid.

What persons may make a force.

One alone, if it be with offensive weapons
and turbulent behaviour, to the affray of
others, *Dal. 103. Lam. 143.*

An infant of the age of 18. *Dal. ibid. Cro. 69.*
and so he may though he be under 18.

A feme covert may by her own act make
a forcible entry or detainer, and she may be
imprisoned and fined, but the fine cannot be
levied on the husband, *Dal. 204.*

Consent.

If one command or counsel others to a
force, and be present, though he do nothing,
he is a principal, *Dal. 204.* but if absent, a dis-
tinct.

Divers enter, one only committeth force,
they are guilty, *ibid. Cro. 22. a. nu. 15. 24. b. nu.*
34. b. nu. 15. *Lam. 143.*

Who cannot be put out.

The King cannot be disseised, therefore an
indictment upon the statute 8 H. 6. for the
disseise is not good; neither can the King's Par-
liament prefer a Bill of Indictment upon the said
statute, but must have an Information in the
Exchequer, *Dal. 205. Cro. 69. a. nu. 13.*

Where

Where one may hold with force.

Where one hath peaceably entred, and continued in quiet possession without interruption for 3 years together, *Lam.* 159. *Dal.* 210. 211. and may hire strangers to maintain his possession, and have his company in armour, *Dal. ibid.* *Cro.* 71. a. b. but he may not resist the Justice of Peace that cometh to view.

Upon inditement of forcible holding, a plea of three years lawful possession next before, avoideth imprisonment, fine, and restitution, *Dal.* 211.

But it holdeth not,

1. If the entry were forcible, though holding peaceable.

2. If the holding were forcible, though the entry peaceable.

3. If a disseiser have continued peaceably 3 years. *Quære* if he shall be helped, by 8 H. 6. or 31 *El.* c. 11. If a disseiser have forcibly continued his possession 20 years, he may be indicted upon 8 H. 6. & the Justices may make restitution, 14 H. 7. c. 28. *Lam.* 160. *Dal.* 211. *Cro.* 71. a. *nn.* 49.

4. If the possession of 3 years have been interrupted, *Cro.* 71. a. *Lam.* 162. *Dal.* 211.

A disseiser quietly holdeth 3 years, after the disseisee entreth or maketh claim, the disseiser re-entering cannot hold with force, for he is in upon a new disseising. *Dal.* 212.

A lawful possessor, after twenty years possession is outed, he can neither re-enter, nor hold with force, *ibid.*

What force is lawful.

Force used by the Kings Officers for the execution or advancement of justice, or the judgment of the law: as,

1. To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2. A Sheriff or his Officers to apprehend by virtue of the Kings Writ.

3. A Justice removing unlawful entries, or holding of possessions, and repressing rioters, *Dal. 208.*

4. Justice, Sheriff, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturb or break the Peace.

5. It is lawful by force to break open doors, to arrest offenders within, if the Officer cannot otherwise enter.

Note, that the Officer is first to signify the cause of his coming, before he attempt to break open the doors, Dal. 209. as,

First, for treason, felony, or suspicion of felony, *Cro. 170. b.*

2. Where one hath dangerously wounded another, *Cro. 131. a.*

3. An affray being in the house, *Cro. 146. b.*

4. Upon a forcible entry or detainer found inquisition, *Dal. 208.*

5. Upon a *Capias ut legatum* in personal action, or *Capias pro fine* directed to the Sheriff, *Cro. 170. b.*

6. Upon Warrant or Process for attaching a Popish Recusant excommunicate, *3 Jac. c. 4.*

7. Upon Warrant for the Peace or good behaviour,

behaviour, *Dal.* 209, 333. but *Cro.* 176. b. maketh a *Quare.*

8. Upon recovery in a real action, or *quare* *firmæ*, but not to execute the Kings Process upon the body or goods of any person in the suit of any subject, *Dal.* 209.

9. In cases where the King is party, *ibid.*

Forcible defence is lawful.

1. For every man to keep his house to himself, his family and goods, as his castle, as well for defence against injury, as for his repose. *Vide plus Houses, Dal.* 209.

2. In defence of husband, wife, father, mother, or master, *Dal.* 184.

3. Father or mother in defence of the child within age, *Dal. ibid.*

4. In defence of my goods or my land, *Dal. ibid.*

5. An heir or feoffee may keep possession by force, if they and their ancestors or feofors, or they whose estate they have, have been in peaceable possession three years, *Dal.* 210.

In these cases he that attempteth may be disturbed; and if he attempt to assault or lame me, I may beat him again, as well in defence of my person as possessions, but not kill him, *Dal. ibid.*

If one will take my goods, I must first lay my hands on him, and disturb him; if he will not desist, I may beat him, *Dal.* 185.

What

*What Justices of Peace are to doe
in forcible entry or detainer.*

Every Justice upon complaint or notice given, ought at the cost of the party grieved to do execution: viz.

1. He must go to the place, *Dal. 57. Lam. 147.*

2. Take sufficient power of the County, or of the Town, and the Sheriff also (if need be) as well to arrest offenders, as also for removing of the force, and for conveying them to the Goal, *Dal. ibid. Lam. ibid.*

Whosoever of that County shall refuse to give his attendance, and assist the Justice shall be imprisoned, and make fine, *Dal. 56. 15 R. 2. c. 2.*

3. Arrest and remove all offenders, and take their weapons, and prize them for the King, *Dal. ibid.*

If the doors be shut, and entrance denied, they may break open the house, *Dal. 57. Quare.*

The Justice cannot arrest or remove them, if he finde no force, except by enquiry, *Dal. ib.*

4. The Justice ought to make a record of the force, and either keep it by him or indant, and certifie one part either into the Kings Bench, or to the Clark of the Peace, and keep the other, *Dal. ibid.*

One Justice of Peace upon his own view of forcible detainer, may record the same by 15. R. 2. c. 2. *Cre. 61. l. viii. 9.*

The Justice or Justices recording a force upon his or their view, may not put the party put out into possession, but must first enquire by a Jury, and the force being found,

put the party outed into possession, *Dal.* 59.

The record of the Justice is a sufficient conviction of the offender, and is not traversable, *ibid.*

5. The Justice ought to commit immediately to the next Goal, those which he findeth continuing the force, until they pay their fine, *ibid.* & 115. or forfeit an 100 pounds, *ibid.*

But such force must be in the presence or view of the Justice.

6. The Justices, or some of them that see the force, are the proper Judges of that offence, and may assess the fine, but it must be upon every one severally, *Dal.* 115. and is to be streated into the Exchequer; upon which assessing and estreating the party is to be delivered, *Dal.* 58. *Lam.* 159.

And so upon payment of the fine to the Justice, or recognizance for payment, *Dal.* 58. *vide Lam.* 159.

Quare, for the Sheriff is accountable for all fines: and *Lamb.* adviseth to refer it over to the Kings Bench, *Lam.* 155.

Or the Justice may record the force, commit the offenders, and certifie the record to the Justices of Assize, or to the Sessions, and there the offenders be fined, *Dal.* 58.

But ought more properly to be assessed by them that record the force, *Dal.* 91. and to be of value.

Or the Justice may certifie the record into the Kings Bench, refer the fine thither, *Dal.* 58. which *Lambert* thinketh the best course, *Lam.* 159.

The fines must be reasonable, *secundum quantitatem & qualitatem delicti*, *Lam.* 577.

7. The force ought to be inquired of in some good place or town, neer where the force was, *Dal. 58.* and that within a moneth, if it be a riot, *Dal. 115.* One Justice may enquire, *Dal. 58.*

Enquiry may be though the offenders be not present, or though the Justice go not to the place where the force is. *Dal. 58, Lam. 152.*

Without enquiry there can be no restitution, *Dal. 59. Cro. 161. b. 164. a.*

Upon enquiry making, the Justice must direct his precept to the Sheriff to summon 4 of 40 shill. a year land *per annum*, *Dal. 13. vid. the form, Cro. 132. b. Dal. 400.*

If the Sheriff do not duely execute the Justices precept for the returning of a Jury, he forfeiteth 10. li. 8. *H. 6. c. 9. Dal. 58.*

Upon default the Justice may award an alias and *pluries infinite* till they come.

The Sheriff, at the day of the second precept, must return 40 shill. in issues upon every one, at the third Writ 5 pound, and at every day after the double, 8 *H. 6. c. 9.*

If any Jurour have not 40 shillings land, yet the inditement is good for the King.

Quare if there shall be restitution, *Lam. 152. Dalton 213.*

Returning of smaller issues then the statute, hindreth not the inquiry, *Dal. ibid. Lam. ibid.*

8. Upon enquiry the Justice may make restitution, wherein the Justice needeth not to examine the title, *Dal. 214. Lam. 156.*

No restitution before inquisition, *ibid Cro. 61. b. 164. 3. Dal. 214.*

In the inditement not onely the entry, but

also the putting out must be, and *ad extra tenent*, Lam. 153. for lack of these words no restitution can be made, Dal. 214. Cr. 163 b. Lam. 153.

The inditement must be good both in matter and form, Dal. 215. the words *manu sua* or *cum multitudine*, are necessary, *ibid.*

The inditement must express the quality of the thing, whether messuage, cottage, &c. *tenementum* may extend to either, and so is certain, Dal. 214.

If restitution be made by a Justice upon an insufficient enditement, the Kings Bench will restore the other, Dal. 215. Cr. 162 a.

If error be in the enditement, any two of these Justices which were at the taking of the enditement, upon prayer of the party, may grant a *super sedens* to stay restitution, if restitution be not made, Dal. 215. Cr. 165 a.

But no Justice not present can grant a *super sedens*, *ibid.*

The Justice may make restitution, or give warrant to the sheriff, or certifie into the Kings Bench, and leave the award of restitution to that Court, Dal. 216. Lam. 156.

None can grant restitution, but they before whom the force was found, Dal. 216. except the Kings Bench.

None can personally restore the party, but he that took the enquiry, Dal. 216. And that by precept to the Sheriff, Lam. 158.

After enquiry the Justice of Peace may break into the house by force, and put the ejected into possession, Dal. 49.

If restitution be made without enquiry, it is punishable in the star-chamber, Dal. 49.

Restitution

Restitution must only be made to him that was put out, *Dal.* 159, 213. *Lam.* 153.

Restitution is to be made only of house and land, *Dal.* 214. but not of rent, common or advowson, *Dal.* 59.

Restitution may be made notwithstanding traverse, *Dal.* 60. but upon tender of traverse, the safest way for the Justice is to certify the presentment into the Kings Bench, *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Star chamber, *Dal.* 60.

The offenders being gone the Justice may send his Warrant, and commit them till they find surety of their good behaviour *Dal.* 60.

If force be made by three, it is a riot, *Dal.* 61.

*The proceedings upon a Writ upon
the Statute of Northampton,
2 Ed. 3. 3.*

1. The Justice of Peace to whom this Writ is delivered, is but a minister therein, and coming to the place where the force is supposed, by the writ he may cause three Oyes, and then make proclamation for silence, *provs Dalton* 61. *Cro.* 72. a. b. *Lam.* 168.

2. Then may he read, or cause the Writ to be read, or declare the effect thereof.

3. Then let three Oyes be made, and make proclamation again for silence, *provs Dal.* 61. *Cro.* 72. a. *Lam.* 169.

4. Either enter and search for armour, or enquire by jury, *Dal.* 62. *Lam.* *ibid.*

All that remain after proclamation, are to

be imprisoned, and the armour apprized,
If upon proclamation they depart, they are
not to be imprisoned.

*The execution of the Statute of
Northampton without Writ.*

Every Justice of Peace may execute it *in*
officio without Writ, *Dal.* 62. *Cro.* 72. a.

The difference in the manner of execution
is, that without Writ there needeth no pro-
clamation nor certificate into the Chancery,
but the Justice may enter, search, commit the
offenders there found, apprise the armour,
record all what he shall do, and thereout send
an estreat into the Exchequer, *Dal.* 62. *Cro.*
ibid. *Lam.* 171.

The Justice cannot make restitution to the
party outed, but only remove the force, *ibid.*
Lam. 172.

Of causes to stay granting of restitution, vide
Dal. 218.

*Forfeitures of a Recognizance
taken for the Peace.*

Whatsoever is a breach of the Peace, the
same is a forfeiture of the recognizance, *Dal.*
181. as,

1. To threaten a man to his face to beat or
kill him, *Cro.* 136. b. *Lam.* 115. but not if he be
absent, *Dal.* 152.

2. To strike at, or offer to strike at a man
though he hit him not.

3. All Affraies, malicious and violent stri-
king, or other mis-intreatings of the person
of another, *Dal.* 181. *Lam.* 127.

4. To go with company or weapons unusual, *Dal. ib d. Cro. 137. a. Law. 126.*

5. To command or procure another to break the peace, and if it be done indeed, *Lam. 115. Dal. 182. Cro. 137. a.*

6. Imprisoning or arresting another without warrant, *Lam. 127. Dal. 182.*

To thrust one into the water, whereby he is in danger of drowning. *ibid.*

To ravish a woman against her will, *ibid.*

To commit burglary, robbery, murder, manslaughter, or do any treason against the person of the King, *Lam 127. Dal. 182.*

To be riotously assembled.

The act that breedeth the forfeiture of a recognizance of the peace, must be done unto the person of another, *Dal. 182.*

Vide plus Recognizance, *vide plus* Breach of the Peace, and Fines.

One committed for petty larceny and convicted thereof, shall forfeit his goods, *Lam. 273. Dal. 234. Cro. 36. b. m. 20.*

Forfeitures upon statutes, *vide* Several statutes.

Forgery.

Second forgery of deeds concerning another's land after a former conviction is felony, *5 Eliz. 14.* but not enquirable by the Justices of Peace, *Dal. 288. Cro. 56. b. Lam. 549.*

Foreign plea.

One indicted of petty treason, murder, or other felony, pleadeth a foreign Plea triable by Jury; it shall be tried before the Justices before whom he was indicted, and by the

Jurours of the same County, 22 H.8. c.14.
H.8. c.3. Lam. 552.

Forrester.

Forrester, Warrener, or Parker, after he
and Cry to yield, killeth any man in his office
making resistance, it is justifiable, 21 E.1.
malefactoribus in Parcis, Lam. 235. Dal. 235.

Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth
for any victuals or wares before they come
to the Market, Fair, or Port or moveth the
party to inhaunce the price, or not to bring
them to the Market, Fair, or Port, Lam. 450.

Forestaller convicted before the Justices of
Peace at the Quarter Sessions by examination
of two witnesses, or presentment for forestall-
ing, for the offence shall for the first time,

1. Lose the goods, and be imprisoned two
moneths without bail or mainprise.

2. For the second lose double the goods, and
be imprisoned for six months

3. For the third lose all his goods, stand in
the pillory, and be imprisoned during the
Kings pleasure, 5 E.6. c.14. Lam. 570.

The moiety of the forfeiture upon the Sta-
tute of forestallers due unto the party, is to be
levied by *Fieri facias* or *Capias*, to be awarded
by the Justices of Peace, Lam. 584.

Fowlers and Fowling.

Shooter; taker, or destroyer by guns, bows,
setting-dogs, nets, or other engines of any
Pheasant, Partridge, Pigeon, Heron, Mallard,
Duck, Teal, Wigeon, Growse, Heathcock,
Mooregame,

Moore game; or such fowls upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three moneths without bail, unless he pay to the Church-wardens of one of the places, to the use of the poor 20 shill. for every Pheasant, & also for every egge of Pheasant, Partridge, or Swan taken or destroyed, or after one month of his commitment become bound with two sureties in recognizance of twenty pound never to do the like, the same recognizance to be returned to the Quarter Sessions, 1 Jac. 1. 27. Lam. 334. Dal. 89. 7 Jac. c. 11.

Vide Partridges and Pheasants.
Games, *vide* Unlawful games.

Goal. Goaler.

Goaler or Sheriff may make a goal of his own house, so cannot a Constable nor Justice of Peace, Lam. 133. Dal. 347, 348.

Goaler suffers a felon to go at large, and he escapes; it is felony in the Goaler not in the prisoner, Lam. 229. Dal. 274. P.R. 147. 149. Dal. 278.

Goaler by hard and cruel custody compels his prisoner to become an approver, it is felony, 14 E.3. c. 10. Lam. 231, 420. Crom. 49. a. Dal. 288. as,

Goaler killeth an unruly prisoner which doth assault him; it is no felony, Lam. 235.

Goaler by hard usage killeth his prisoner; it is murder, Lam. 240.

Goaler that taketh above four pence upon commitment of any prisoner arrested or attached, forfeiteth to the party grieved treble damages, and 40 li. the one moiety to the King, the other to the party that will sue for it, 23 H. 6. c. 10. Lam. 431.

Goaler or Sheriff refusing to take a felon delivered by Constables or Township, or taking any thing for receiving, is to be fined, 4 E. 3. c. 10 Lam. 434.

Six Justices may in sundry shires take order for the common goal, wheerof the Sheriff shall have the custody, & to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute, 23 H. 8. c. 2. 13 El. 25. Lam. 336. EXP.

Accountant for mony levied for the goal to build it, goeth into another County; the Justices of Peace where the goal is, may send an attachment for him unto another shire, 23 H. 8. c. 2. 25 H. 8. c. 5. 5 El. c. 24. Lam. 525. EXP.

Goaler suffereth a prisoner to go abroad out of his sight, and he returneth not again; it is an escape, Cro. 39. b. nu. 5.

Goaler refuseth to receive one arrested for felony, the Town must keep him till the Goal delivery, Da'. 348. 349. Cro. 172. a. but the Goaler denying to receive such shall be punished by the Justices of Goal-delivery, *Ibid.*

Goaler shall take no fees of any servant, carpenter, mason, nor other labourer committed for refusing to serve, on pain of 10 li. to the King, and 100. shill. to the party, 34 E. 3. c. 9. Cro. 185. a b.

Glas-men.

Glas-men of honest life may travel without begging within the County, by licence of three Justices under their hands and seals, one being of the Quorum, 39 E. c. 4. but by 1 Jac. c. 7. they are made rogues, and so to be punished.

Goldsmith.

Goldsmith or worker of gold must work a fine silver or gold in allay as the sterling, and set his mark on it, or forfeit the double value, 2 Hen. 6. c. 14. Lam. 467.

None to gild any thing, or any mettall but silver, except spurs of Knights, and apparels of Barons, or above, upon pain of ten times the value, and a years imprisonment, 8. H. 5. c. 3. Lam. 467.

Good abearing.

Good abearing may be granted upon discretion, and that by one Justice out of the Sessions; yet better not to command it but upon special cause seen to themselves, or upon suit of others, and those very honest, and seldome for one cause, alone, and not by one Justice only, Lam. 120. Dal. 191.

Good behaviour may be granted by special Writ out of the Chancery, *Custodibus pacis & vice comiti & eorum cuilibet*, upon the statute of 34 Ed. 3. 1. Lam. 117. Dal. 192.

For what causes it is grantable,
Dalt. 197.

1. Against common barrettors, quarrelers, and disturbers of the Peace.

2. Rioters.

3. Liers in wait to rob.

4. Generally feared or suspected to be robbers by the High-way.

5. Such as are likely to commit murder, homicide, or other grievances to the Kings subjects in their bodies.

6. Such as shall practise to poison another.

7. Against all such as be of evil name or fame generally, but especially against such as are defamed in these particulars:

1. Those that haunt bawdy-houses.

2. Suspected to keep houses of common bawdery.

3. Common whoremongers and common whores.

4. Night-walkers that be suspected to be pilferers.

5. Evesdroppers that cast mens carts and gates into ponds, and such like misdemeaners in the night; such as live idly, yet fare well, and go well clad, having little to live on, except upon examination they give good account of such their living.

6. Common haunters of Alehouses or Taverns, having small means to live on.

7. Drunkards twice convicted.

8. Messengers of thieves.

9. Such as make false hue and cry.

10. Cheaters and Couzeners.

11. Libellers.

12. The putative father of a bastard.

13. Unlawful hunters in Parks, after examination taken.

14. Abusing of officers in executing their office, as a Justice of Peace, Constable, or other officer of the Peace; as a Justice seeth a man break the Peace: and doth charge him to keep the Peace; who answereth, he will not.

Words of contempt against a Justice of Peace, though he be not executing his office.

15. Abusing a Justice of Peace his warrant.

16. He that complaineth of riot or force, and the Justices being assembled for enquiry will not prosecute.

17. He that chargeth one with felony before a Justice and will not prosecute.

18. Abusing of a *Superfedens* of the Peace to a wrong end.

By divers Statutes.

1. Disturbers of Preachers, 1 *M.c.* 3.

2. Destroyers of fish-ponds, or stealers of fish, after lawful conviction, 5 *El.c.* 21.

3. Takers of hawks or hawks eggs out of other mens grounds after a lawful conviction, 5 *El.c.* 21.

4. Steelers, hunters, or killers of Deer or Cony in Park or Warren after a lawful conviction, 3 *Fac.c.* 13.

All these must be bound at the Sessions.

5. Popish recusants must be bound in the King Bench, 23 *El.c.* 1.

6. One

6. One pardoned for felony, is to be bound before the Sheriff and Coroners, 10 *Ed. 3. c. 3.*

7. Disturbers of the execution of the statute for rogues, 39 *El. c. 4.*

8. Disturbers of execution of the statute for the poor, 39 *El. c. 4.*

9. She that hath had twice a bastard, 7 *Jac. cap. 4.*

10. Infected with the plague, or having their houses infected and are unruly, 1 *Jac. c. 31.*

Greyhounds, *vide* Hunting.

Guns and Gunners.

Gunner that departed from his Captain without licence, or wandring with a forged licence, it is felony, *Lam. 427.*

Every person may attach an offender against the statute 33 *H. 8. c. 6.* and carry him to a Justice of Peace, *Dal. 65.*

And the Justice upon examination may send him to the goal till the penalty be paid.

The particulars of the Stat. 33 Hen. 8.

None under 100 pound *per annum* may shoot in, or keep a gun, dag, pistol, cros-bow or stone-bow.

None may have or use any gun under three quarters of a yard in length.

One of 100 pound *per annum* may take such gun from the offender, or any cros-bow or stone-bow, & may keep the bow, but must break the gun.

None may travel with a gun charged, or bow bent, but in time of service, and to the musters, except he have 100 pound *per annum*, *Dal. 65.*

None

None may shoot in a gun near a Market-Town, but in defence of his house or person, or at a But.

The master may not command his servant to shoot, except at a But, or in War.

1. Except Serving-men (whose masters are enabled) at a But.

2. Inhabitant of Market-town.

3. Persons dwelling alone, or near the Sea, within five miles.

4. Gun-makers.

5. Those that have Placards.

All persons which shoot in guns (other then such as have 100 pound *per annum*) ought to present their names to the next Justice of P. and the Clark of the Peace should record it, *Dal. 66.* maketh *quare* if it be in use.

'The Sheriff or any of his officers may carry guns, dags, or other weapons, offensive or defensive, for the execution of their office, notwithstanding the statute of 33 *Hen. 8. c. 5.* *Dal. 66.*

'Any two Justices may commit, for three months, such as shoot with gun or bow at any partridge, pheasant, house-dove, mallard, or any fowl, or at any hare, unless he pay 20 shillings, 1 *Fac. c. 27.* *Dal. 66.*

Vide Hunting Partridges.

Hares.

'Fany have traced, killed, or destroyed any Hare in the snow, he loseth 6 shill. 8 pence for each Hare, 14 *H. 8. c. 10.* *Lam. 447.*

Buying & selling of Hares, *vide* Partridges. See that Stat. 1 *Fac. c. 27.* in Fowlers.

Harnets

Harness and Habiliments of war.

To imbezil habiliments of war, or victuals provided for souldiers, mariners, or gunners, is felony, 3 *E'.c.4.*

Hart proclaimed, *vide* Deer,

Harvest.

Artificers and other persons meet to labour, are compelled by one Just. of P. or Constable, and the refuser to labour in hay-time or harvest, is to be put in the Stocks two daies and one night, *Lam. 475.* the Constable or other head-officer to do it upon pain of forty shill. 5 *Eliz. cap. 4.*

Hawks and Hawking.

Unlawful taker of Hawks eggs is to have three months imprisonment, there to remain till he find sureties for the good behaviour for seven years, 5 *E'.c.21. Lamb. 446. vide 3 Jac. cap. 13.*

Taking of Hawks eggs upon ones own grounds or anothers, or any Eires, or driving them out of their covert, or bearing any Hawk of the breed of *Eng.* called a Nyeste, Goshawk, Tassel, Lanner, Lanneret, to be imprisoned a year and a day, and to lose 10 pounds & the Hawk, 11 *H. 7. c. 17. Lam. 446.*

Every Justice of Peace may examine the offences for hawking or hunting with Spaniels in eared or coddien corn, and bind over the offender with sureties to the next Sessions, 23 *El. c. 10. Dal. 66. Lam. 447.*

Against hawking at pheasant or partridge, between the first of July and last of August, *vide 7 Jac. c. 11. and Partridges.*

Vide

Vide p^{tes} Larceny and Felonys

Hay and Oats.

Inholder taking any thing for litter, baking horse-bread, except in Town or Village, being a thorow-fare, & being no City, Town corporate, or Market-town, the same to be of assize and weight, after the price of corn and grain in the Market, or sell horse bread, hay, oats, beans, pease, provender, and all kind of victuals, both for man and beast, for reasonable gain; for the offence,

1. Fined.
 2. Imprisoned for a month without bail.
 3. Stand on the Pillory without redemption of mony.
 4. Fore-judged for keeping Inne again,
- 21 Jac. c. 11.

Hedge-breakers.

Breakers and cutters of hedges, pales, rails, or fences, cutters and carriers away of corn growing, robbers of orchards or gardens, pullers up of fruit-trees, with intent to carry away; cutters or spoilers of woods, poles, or standing trees, convicted before a Justice of that County where the offence shall be done, by confession, or one witness upon oath, are to render such damage as the Justice shall limit; and if not able, to be whipped by the Constable, who for default in his office, is to be committed without bail, till he cause it to be done, 43 El. c. 7. Lam. 302. Dal. 143.

No Justice to proceed against such trespasses for offences done to himselfe, without assistance of another Justice, *ibid.*

The

The second offence is whipping, 43 *El.c.3*

High-waies.

One Justice may cause high-waies to Markets to be enlarged, & cleansed of bushes and trees, 13 *E.1.c.5. Dal.67.*

Every Justice may present upon his own knowledge in open general Sessions, any high-waies insufficiently repaired, or any default against the statute 2 & 3 *Ph. & Mar.c.8. & 5 El.c.13.* and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may assess the same, though the presented be absent, saving to the offender his traverse, *Dal.67 Cro.125.b.195.a.nn.5.*

The defaults contrary to these Statutes.

1. If the Constables and Church-wardens do not on Tuesday or Wednesday in Easter week call together a number of Parishioners, and chuse surveyours for high-waies.

2. If six daies be not by them then appointed for mending high-waies before Midsummer.

3. If notice be not given by them openly in the Church the Sunday after Easter of the said six daies.

4. If he that hath a plow land in tillage, or pasture, or draught, do not for every draught or plow-land send one cart with two able men to work eight hours of every of the said six daies, 20 shill.

And every other Parishioner having 5 li. in goods 40 s. in lands in the subsidy, must find every day two able men, or lose 10 shill. and every cottage one, or lose 12 pence a day.

But

But 18. *El.* 9. he that occupeith a Plow-land in several Parishes, only where he dwelleth; and he which hath plow-land in several Parishes, shall be charged in each town, *Dial.* 68. *Cro.* 82. b.

5. If the carriages be not thought needful by the surveyors, then two able men for every cart spared, upon pain to forfeit for every one not sent 12 pence, 2 & 3 *P. & M. cap.* 8 *Cro.* 82. b.

6. If fences, hedges and ditches next adjoining to the high-waies be not kept low, mowed, and repaired.

7. If all trees and bushes growing in the high-waies be not cut down by the owner of the land, upon pain of 10 shill. for every default, 5 *El.* c. 13. 18 *El.* c. 9.

8. If any chosen to be surveyors refuse the office, or do not execute it, penalty 20 shill. 2 & 3 *P. & M. c.* 8.

6. If the surveyor do not within one month next after the offence committed, present it to the next Justice, he forfeiteth 40 shill. 5 *El.* c. 13. 29 *El.* c. 5.

10. If the Bailiff or Constable who receiveth the estreats, do not levy the same, or make not a true account and payment of all sums levied to the Constable and Church-wardens, or the Constables and Church-wardens have not imploied them upon the high-waies.

If the surveyors do certifie the next Just. within a month, the Justice ought to certifie the presentment at the next Sessions, penalty five pounds.

If the surveyors present not till after the month, and the Justices do certifie it at the next

next Sessions, it is not good against the offenders, *Dal.* 70.

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of April, and compel them to pay all such arrerages as they shall adjudge to the Constables and Church-wardens, or imprison them till payment of such arrerages be made, and call the Surveyors, and Constables, and Church-wardens to an account.

All fines at the Sessions for high-waies, shall be levied by estreats indented, sealed, and signed by the Clark of the Peace, and delivered by him within six weeks after Michaelmas. *Dalton* 71. as by statute is appointed, vide Statute.

The Bishop, Chancellor and three Justices of Peace, may examine the bestowing of any money appointed by any stat. for the amending high-waies or Bridges, and call to account the detainer thereof, 14 *El.c.* 5. 39 *El.c.* 14. *Lam.* 366.

Upon endictment for repair of bridges in high-waies, there shall be like process as the Kings Bench useth, or such as the Justices of Peace think meet, 22 *H.8.c.* 5. *Lam.* 523.

High-waies leading from one Market Town to another, shall neither have dike, underwood, or bush, whereby a man may lurk to do hurt, within two hundred foot of one side or other: if default be in the Lord, and any robbery be done therein, he must be answerable for it; and the Lord of a Park must set it two hundred foot on each side from the way, or a sufficient wall, dike, hedge, or pale, that

that the offenders cannot pass, *Dal.* 133.

Homicide.

Homicide is the killing of a man by a man, *Dal.* 234.

It is no difference whether the slain be alien, denison, or English man, if he lives under the Kings protection. *Lam.* 237. *Crom.* 21. a. nu. *Dal.* 239.

To kill one attainted of treason, or of felony, or outlawed for felony, or attainted in Pre-munire, is felony, *Dal.* 239. *Cro.* 24. a. nu. 39. *Stamford* 13. *quare.*

Homicide is either killing himselfe, *felo de se*, or another.

Felo de se forfeiteth to the King his goods and chatte's real and personal, and his debts due by speciality, *Dalt.* 240. but no lands, nor blood corrupted, *ibid.*

His goods are not forfeited till his death, *ibid.*

Infant, or *non compos. mentis* do not forfeit; but a lunatick killing himselfe out of his lunacy, doth forfeit his goods, *Dal.* 240.

Homicide of another is { Voluntary,
Involuntary.

Voluntary is { Murder, *vide* Murder,
Manlaughter.

Manlaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other, *Cro.* 26 *Lam.* 248. *Dal.* 247.

Manlaugh- { By chance medly.
ter is { *Se defen-* person.
 dendo { house and goods,
Manlaughter by chance medly is felony, but

but may have his clergy, *Dal.* 247.

One fighting breaks his weapon, a stander by lends him another, whereby the other is killed; it is manslaughter in the lender, *Dal. ibid. Cro. 26. b. nu. 12. Lam. 252.*

Two fighting on the sudden, part, and meet again, one killeth the other; it is a continued fray, *Dal. ibid. Lam. 250. Crom. 23. b. nu. 31. & 24. a. nu. 36. & 26 a. nu. 9.*

The servant fighting in his masters defence, though there were malice in the master not told to the servant, *Lam. 248.* so a stranger suddenly taking part, *Lam. 248.* it is chance-medly.

Two that were in malice are reconciled, fall out upon a new occasion, and one is killed; it is manslaughter only, *Lam. 250. Dal. 248.*

Se defendendo, when one killeth another in the necessary defence of himselfe or his, thereby to save himselfe or his possessions or goods, or some other persons which he is bound to defend from peril, and it is either against a felon, as murderer or thief, or a loial subject, *Lam. 252. Dal. 253.*

Against a loial subject, if he be assailed by another man, he must flie so much as he may till he be letted by some wall, ditch, hedge, prease of people, or other impediment, that his necessity of defence may seem inevitable, and he shall be committed till the time of his triall, lose his goods, and seek his pardon, *Lam. 253. Dal. 254.* It is not material though he strike again, if before he give any deadly wound he flie to the streight.

‘ A man flieth to a wall, and holding out his
‘ weapon,

weapon, the other runneth upon it and is slain, it is *se defendendo*, and forfeiteth his goods *Dal. 274. Cro. 28. a nu. 7.* But if he had fallen on the ground & drawn his knife, and the other fall on it, and killeth himselfe, he forfeiteth no goods, for he could not flie and the slain is in a sort *felo de se*, *ibid. P. R. 122. b. Stam. 1 5. 3.*

Neither is it material though there were former malice, unless he lie in wait for the other, or agree for the place of fight, or strike the first stroke, *Lamb. 2 33. Dal. 254.*

Or assaulted in his own house upon a sudden quarrel, and thereby killeth him, *La. 254.* But he forfeiteth his goods and must have his pardon of course, except the assailant came with a felonious intent to kill or rob him, *Dal. 254. Cro. 28. a nu. 6. Lam. 254.*

A man falleth to the ground, there his flying to a fireight is not necessary, *Dal. 255.*

An officer or minister of justice, in executing his office being assaulted, is not bound to flie, *Dal. 255. Coke 9, 98.*

A servant killing him who robbed or killed his master, so it be done presently, or in defence of his masters person or goods, if it cannot otherwise be avoided, *Dal. ib. d. Cro. 28. nu. 4.*

Forester, Parker, or Warrener, or any in their company, killing an offender in a Forest, Park, or Warren, after hue and cry to keep the P., if they yield not themselves, but flie, or defend themselves by violence, is no felony, *Dal. 255. Quere* if there be no malice in the keeper, *Cro. 30. b.*

In defence of my house & goods, it is justifiable

liable by me, my servants or company, to kill one who attempteth feloniously to murder or rob me in my dwelling-house, or in or near a high-way, horse-way, or foot-way, or burglarily to break my house in the night, De. 254. *Crom. 27. b. nu. 1. Vide Lam. 240.* of one entering by force in the day, and killing in the dark.

To shoot at him that cometh to burn my house, is justifiable in me or my servants, *De ibid. Cro. ibid.*

In defence of the possession of my goods, I may justifie to beat him that wrongfully taketh them, but not kill him, except he be a thief, *D. 1. 255. Vide Assault.*

To kill a true man, in defence of house
land, or goods, is manslaughter, *Dal. bid. Cr.*
27.b.iii.4.

Involuntary homicide is by } Mis-adventure,
 } necessity.

By misadventure is, when a man doing a lawful act, without any evil intent, kills a man: this is not felony of death, but he shall have his pardon of course for life and lands, but forfeiteth his goods, *Dalt.* 249. Lamb. 254.

A schoolmaster, father, mother, or master correcting moderately his scholar, child, or servant; Shooting at pricks, butts, or lawful mark; A workman casting tyle, timber, or stone from a house, or any thing from a car, and giving warning, or doing other lawful thing, and giving warning.

Running at Tilt, or fighting at Barriers by
the Kings command.

The killing of a man in doing of an un'law

ful act, without evil intent, is felony, as shooting arrows, casting stones into high-ways or other place whither men usually resort, *Dal. 240.*

Fighting at Barriers, or running at Tilt without the Kings command.

Quere if playing at hand sword, bucklers, foot-ball, wrestling and such like, whereby a man is slain or receiveth hurt, & dieth within the year and day, be felony of death, or may have their pardon of course *quere* whether of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh, *Dal. 231.* if it be through the wilful default of another, it is felony.

Thething which causeth the death is a *Deadland*, and so forfeiteth to the King, *Grant 31.*

Dal. 251. The forfeiture hath relation from the stroke given.

Deadlands are not forfeited till the matter found on record, *Dal. 251.*

The Jury which findeth the death of a man, must find and appraise the *Deadland*. It behooveth the Town to see it forth coming for the Sheriff shall be charged with the price, and shall levy the same on the Town, *Dal. 111.*

If the slain be under 14 years of age, nothing is forfeited as a *Deadland*, *Dal. 111. Stain.*

Homicide by necessity Commanded, *Stain.* *Tolerat.*

G. Com.

Commanded.

An officer doth execution after judgement according to his warrant; it is not properly homicide but justice, *Lam. 234. Dal. 251.*

If the officer doth not observe order of law, it is felony in the officer, *Dal. ibid. Lam. 234. Stam. 13.*

If a stranger, not lawfully deputed, put to death one condemned to die, it is felony, *Dal. ibid. Lam. ibid.*

It is not lawful for the Judge, who hath condemned him to be put to death, *ibid.*

Tolerated.

One warranted to arrest one indicted for felony, upon resistance killeth him, *Dal. 251. Lam. 234.*

Every private person upon hue and cry may take a felon, if he resist and will not yield, may kill him, *ibid.*

Conductors of a felon to the Gaol, by resistance or flight may kill him, *Dal. 251. Lam. 234.*

A prisoner in the Gaol attempteth to escape, and striketh the Gaoler, he killeth the prisoner, it is not felony, *ibid.*

Rioters, forcible churers or detainers shall resist the Justice of Peace, or other Kings officers, & will not yield themselves being slain, it is no felony, *Cr. 23. b. 30. b. 45. b. Lam. 235. Dal. 251.*

If an officer, by virtue of the Kings process arresting one for debt, or other suits, is resisted and killeth the resister, it hath been taken to be no felony, *Dal. 253. Cr. 24. a. 30. b. 2. Cok. lib. 4. fol. 40. 41.*

To kill a true man in defence of house, lands, or goods, is homicide by necessity, *Dal.* 254.

In all these former cases there must be inevitability, that the offender could not be taken without killing, *Dal.* 253.

Horses and Mares.

Any Justice may hear and take the claim of the owner of any horse, &c. which was stolen within six months after the sale thereof, the proof to be made by two witnesses upon oath within forty daies next ensuing the said claim, *Dal.* 73. *Lam.* 203. 31. *Eliz.* c. 12.

The Justice of Peace may minister an oath to the buyer what money he paid, *bonâ fide*, so that the right owner repaying his money may have his horse again, *Dal.* *ibid.*

Owner, officer, or ruler of any fair, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose forty shillings for every fault, and answer the party grieved, 2, 3 P. & M. c. 4. *Lam.* 471.

The sale of every horse not being according to the stat. in every point, is void, *Dal.* 73. *Lam.* 472.

1. The horse must be one hour at the least in the place of the open fair.

2. All the parties to the bargain being in the fair, must come with the horse to the book-keeper.

3. The book-keeper must take perfect knowledge of the seller and of the voucher, of the Christian name, surname, mystery and place of dwelling.

4. The voucher must know the seller indeed, and declare to the book-keeper the

Christian name, surname, my flery and dwelling, as well of himsele, as of the seller.

5. The book-keeper must make a true and perfect entry, of the sellers name and place of dwelling, &c. and of the true price, forismon. 31 *El. c. 12.*

Every contract for a stolen horse out of the fair is void, though it be after booked, *Dal. 74.*

A sale in open market shall not take away the owners property, the buyer knowing that it was anothers, *Dal. ibid.*

All horses, and all other goods, are to be sold in such a place or shop as is commonly used for the selling of goods of the same kind to alter the property, *Dal. ibid.*

A thief selleth a stolen horse by a false name, and is so entred in the toll-book; such mis-naming maketh the sale void against the owner, *Dal. 74.*

Horse-bread.

Inholder in a corporate or market Town where there is a common baker that hath been an apprentice therein seven years, may not make horse-bread within his house, 31 *H. 8. 41. 21. Jac. c. 21.*

Inholder or ostler in a thorow-fair Town being no City, town corporate, or market town, being a baker, and one that hath been an apprentice therein seven years, may not make horse-bread within his house, 21 *Jar. 21.*

The horse-bread must be sufficient, lawfull and of due affize; according to the price of corn, 21 *Jar. 21.*

Penalty

- Penalty
1. Fine.
 2. Imprisonment for a month without bail.
 3. Stand in the Pillory without redemption of money.
 4. Forejudged for keeping Inne again, 21 Jac. c. 21.

vide Inne-holder.

Hospital.

The Bishop and his Chancellour, with two Iustices of Peace next inhabiting, may charge the collectors of a revenue of an Hospital, upon a pain. presently to account, and to imploy the surpluse to the use of the Hospital, Stat. 356. 14. Eliz. c. 5. 39. El. c. 18.

Hospitality, *vide* Religious house.

Houfe.

1. A mans house is his castle for defence, Dal. 209.

2. It protecteth against any arrest at the suit of any subject, *ibid*.

3. In some cases it is a privilege against the Kings Prerogative; for it hath been adjudged that Salt-peter men may not digge in a Mansion-house without the owners consent, *ibid*. Coke lib. 11. fol. 82.

Thieves or murderers attempting to rob or murder a man in his house, he may assemble company and kill any of them, and forfeiteth nothing, *ibid*.

He may beat him that will enter upon his possession, but may not kill him. *Quere* if he

133 House of Correction,

may hire strangers to aid him, or put his ordinary company in armour, *Dal. 269.*

Vide plus Homicide.

House of Correction.

House of Correction with implements and backslides fitting for setting on work idle persons, to be erected and provided in a convenient place in every County before Michaelmas 1611. the same to be conveyed over to such as by the greatest part of the Justices at the Quarter-Sessions shall be chosen to be employed for setting on work idle and disorderly persons, on pain of 5 li. for every Justice of Peace, the one moiety to the informer, the other towards the erecting of the house, *7 Jac. c. 4.*

Master of the said house to be appointed by most of the Justices at the Quarter Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering, such persons as shall be sent to him, *7 Jac. c. 4.*

Master of the house of correction giving sufficient security for performance and continuance of his service, is to have yearly such money as by most of the Justices at the Q. Sessions shall be thought meet, to be paid quarterly by the Treasurer, or else the master to levy it in such sort as the Treasurer may, *7 Jac. c. 4.*

Constables shall appear before the Justices of Peace twice in the year, and give account upon oath of writing, under the hand of the minister, what rogues have been apprehended, and how many punished, *7 Jac. c. 4.*

Constables not safely conveying to the house

House of Correction such as by the Justices of Peace at their meeting for the execution of the Statute 7 Jac. c. 4. shall be sent thither; to pay such fine under forty shillings, as by most of the Justices shall be assessed, 7 Jac. c. 4.

A woman having a bastard which may be chargeable to the Parish, for the first offence to be sent to the house of correction one year, for the second offence to be sent to the House of correction and to remain there (as aforesaid) till she finde sureties for the good behaviour, and not to offend so again, 7 Jac. c. 4.

Any able to work and threatening to run away and leave their families upon the Parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the Parish, or to be sent to the house of correction, 7 Jac. c. 4.

Master of the House of correction quarterly at the Sessions must yield account of such as have been committed, or is to be fined by most of the Justices, 7 Jac. c. 4.

If any committed become troublesome to the countrey by going abroad, or escape without lawful delivery, the Master is to be fined by most of the Justices at the Q. Sessions, 7 Jac. c. 4.

All penalties not limited by the statute 4 Jac. 2. shall be paid to the Treasurer, and accounted by him, 7 Jac. c. 4.

Vide **plus Poor people.**

Hunting.

One Justice of Peace, upon information of any unlawful hunting of Deer or Conies by night, or with painted flies, or other disqui-

ling in forests or parkes or other places, by
warrant to the Sheriff, Constable, Bailiff,
other officer, to take the party suspected
to bring him before him or some other Ju-
stice, to examine him thereof; and if he
conceal the hunting, or any offender with
him, therein: the offence is felony in
the concealer; but the truth confessed is in-
sueable at the next Quarter Sessions. *1 H. 7. c. 12. D. 18. c. 2 of his neighbour's*

To disobey such a warrant or make refusal
thereupon, so that execution of that warrant
be not had, is felony, *1 H. 7. c. 7. D. 16. c. 1*

The Justice of Peace that taketh examina-
tion of the offender for unlawful hunting in
parks, &c. may after the examination bind
the offender to his good behaviour, to the
end he be forth-coming till the offence
the offender be lawfully examined. *D. 75. c. 6.*

Unlawfully hunting by three or more will
prove a riot. *D. 175. c. 1. 18. c. 2 of his neighbour's*

Any by night or day wrongfully entering
to any inclosed ground, kept for keeping of
Deer or Conies, and there chasing or killing
of them, upon conviction to be imprisoned
three months without bail, and there to
continue till he pay treble damages and costs
to be assessed by the Justices before whom he
is convicted, or pay to the party grieved
pound for Deer at the election of the party
grieved, *7 Jac. c. 13.* and find surty for his
good behaviour for seven years, *3 Jac. c. 13.*
7 Jac. c. 13. Lam. 2. c. 11.

The party grieved or the Justice of Peace
upon satisfaction of the party grieved may
confession of his offence, and that he is forth-
coming

for the same, in open Sessions, may release the
 offender of his bond for the good behaviour,
 3 *Iac. c. 13.* The statute, 3 *Iac. c. 13.* doth not p^ro-
 vide offenders in parks or inclosed grounds made
 after the statute, without the Kings licence,

3 *Iac. c. 13.* Enquiring, hearing and determining of of-
 fences against the Statute, 3 *Iac. c. 13.* may be
 made by the Justice of Peace and Goal-deliv-
 ery at the Sessions, and they may award
 process, upon indictments, informations,
 bills of complaint, or other actions where-
 in no essoin, &c. 3 *Iac. c. 13.*

Any not having lands of inheritance in his
 own or wives right of the clear yearly value
 of 10 li. or for term of life of 30 li. *per an-*
num, or goods to his own use worth 200 li.
 keeping Greyhound to course Deer or Hare,
 except the son of a Knight or Baron of Parlia-
 ment, or son and heir of an esquire, upon
 conviction by confession or oath of two wit-
 nesses before two Justices of Peace, where the
 offence is committed, the party apprehended
 to be imprisoned three months without bail,
 except he presently pay to the Churchwar-
 dens where the offence was committed, or
 party apprehended, 40. shill. to the use of the
 poor of the said Parish, 1 *Iac. c. 27.*

Any having lands in fee simple, or fee tail
 of 100 li. *per annum*, finding any not having
 lands of 40 li. *per annum*, nor worth 200 li.
 in goods, to use any gun, bow, dogs, or engines
 for killing of deer or hare, except parker
 or warrener, or owners of either of them, or
 other grounds inclosed for deer or con-

that shall be yearly worth 40 shill. may take any their guns, bows, engines and dogs, and keep them to his own use, 3 Jac. c. 13.

Lay person not having in lands 40 s. *per annum*, spiritual person a benefice not 10 l. *per annum*, keeping dogs to hunt, or using ferrets, &c. shall be imprisoned for a year, 13 R. 2. c. 13. *Vide Parks.*

Hundred.

Hundred with the liberties therein to be equally taxed by two Justices of Peace, one to be of the *Quorum*, in or neer the hundred, for relief of those that are robbed, 27 Eliz. c. 13. *Dal.* 132, 299.

The robbed shall not have his action upon the statute of 27 Eliz. c. 13. except he first with all speed convenient give notice of the robbery to some inhabitant neer the place where he was robbed.

2. Commence his suit within a year next after such robbery committed.

3. He being examined upon his oath within 20 daies next before such actions brought by one Justice where the robbery was committed, dwelling neer to the hundred, if he knew the robbers, or any of them.

If he knew any of the robbers before such action, he shall be bound before the said Justice to prosecute the offenders effectually by indictment, or otherwise by course of law, *Dal.* 131.

The hundred must answer the loss, if the robbers be not taken within 40 daies, *Dal.* 131, 299. *Cro.* 179. a. *Vide Robbery.*

A man is slain in the day time out of a town, and

and the murderer doth escape, the hundred shall be charged there with. 2901. *And.*

Jury of one hundred may present an offence done in another hundred. *Law 399.*

Robbery in a house doth not charge the hundred, though it be in the day-time. *Dal.*

133. *And.*

Robbery in the night doth not charge the hundred, yet if it be by day-light, though before sun-rising or after sun-setting, the hundred shall answer it. *Dal.* 133 *Only 6.*

fol. 6.

If upon pursuit, the offenders or any of them be taken, the hundred shall not be charged. *Dal.* 133.

If the party robbed take any of the thieves after Hue and Cry made, it excuses the

hundred. *Dal. ibid. Cro.* 179.

He which is robbed shall not have his

action where one of the felons is taken, but

if there be no Hue and Cry, the village shall

be amerced, though one of the felons be ta-

ken. *Cro.* 179.

And.

Hue and Cry.

Hue and Cry.

For the apprehending of homicides, but 2

glars, robbers, and other felons, hue and cry

shall be made, and every man shall follow the

hue and cry; and he that doth not, shall be

attached to appear before the justices of

Goal-delivery. If seemeth any justice of

Peace may bind him to be by the commission,

Dal. 133. *Cro.* 179.

Hue and Cry ought to be made from town

to town, from country to country, by horse-

men

present there, (if by reason of his discovery, any offender be taken and convicted, he shall be freed from the danger of the offence, & have the third part of the forfeiture by such offence, 23 *El.* c. 5. *Lam.* 129. *Dal.* 126.

Imprisonments, *vide* Prison.

Indictments, *vide* Enditements.

Information

Information against a felon, whether it shall be taken by oath or no, is uncertain, *Lam.* 213, 214, 215. & *Dal.* 307. & *Cr.* 104. *an.* 5. do best allow it by oath, & so do divers Judges in their circuits.

No process can be awarded upon information of a private person, unless where the statute particularly warranteth inquiry by information, as the Stat. of 5 *Ed.* c. 3. of Labours, 5 *Ed.* c. 21. of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Justice of Peace, so much thereof as is material he must put in writing within two daies after the examination, *Lam.* 212. 2 *Ed.* c. 3. *Pl.* & *an.* 10. *Dal.* 309.

Two inform against another in matter of felony, and do vary in their tales, viz. in the day and place when and where it was committed; such information is not to be credited, *Dal.* 309. *Cr.* 100.

The bringer of the suspected will not inform, it is meet to bind him over to give evidence, *Dal.* 206.

Form of a recognizance for the informer against a felon, *Lam.* 214, 216.

It is not necessary in an information for the King to recite the statute upon which the Bill is framed, but to say *contra formam Statuti in huiusmodi casu editi & provisi*, Cro. 104.b. nu. 50, 53.

Informers and Promoters.

Informers compounding for any offence against a penal law, without consent of some of the Courts of Westminster, or willingly delaying or discontinuing a suit, forfeit 10 li. and is to stand in the pillory being convicted thereof at the Quarter Sessions, 18 El. c. 5, 27 El. c. 10. Lam. 439, 609. the same to be heard at the Quarter Sessions.

All actions for any offences against any penal statute, shall be commenced in the County only where the offences was committed, and upon the defendants pleading *Nihil debet*, or Not guilty, the plaintiff must prove, 1. the offence, 2. to be done in the county, 21 Jac. c. 4.

No officer shall receive, sit for or enter of record, any information, Bill, &c. until the informer hath taken his oath before some Judge of that court, that the offence was done in the same county within a year before the information or suit, 21 Jac. c. 4.

Ingrosser.

Ingrosser is he that by any contract (unless by grant of land or tithe) buyeth corn on the ground or other dead victuals, to the intent to sell them again, except buyers of barley or oats, to make malt or oat-meal. Victuallers not forestalling, Badgers & Drovers not abusing.

148. **1510. To holder.**

abusing their lawful licence, buyers of foreign commodities, except fish & salt, are excepted
5 Edw. 6. c. 24. 13 Edw. 2. c. 25. 13 Edw. 6. c. 24.

In-holder.

In-holder taking any thing for litter, or
excessively for hay, or above a half penny a
bushel above the market for oats, loses four
times the value of the overplus, 12 R. 2. c. 1.
44 Hen. 6. c. 28. 1 Hen. 4. c. 73. repealed by 21 Jac.
c. 21. Vide pl. House-bread.

In-holder or Alehouse-keeper may be
compelled by a Constable to lodge strangers.
Dist. 28. c. 1. 1 Hen. 4. c. 73.

In-holder that suffereth a non-inhabitant
to settle in his house, shall incur the penalty
limited, 1 Hen. 4. c. 73. 1 Hen. 4. c. 73.

In-keeper, Taverner, Victualler, is within
the statute, 1 Hen. 4. c. 73. 1 Hen. 4. c. 73.

Inmate, or de Cottages.

Inrolement.

One Justice of Peace may joyn with the
Clark of the Peace in taking an inrolement
of an indenture of bargain and sale of lands,
&c. lying in the same county, and either of
them is to have 12 d. if the land exceed not
in value 40 shill. a year; and if it do, then
2 shill. 6 pence apiece, and taking above,
fined, 27 Hen. 8. c. 16. 1 Hen. 4. c. 73. 1 Hen. 4. c. 73.

Issues.

The Sheriff that gathereth other estates of
issues then of right are due, forfeiteth 5 marks
to the King, as much to the party, 27 Hen. 8. c. 16.

Forfeiture of office by
jurors are to be levied by records of exchequer
awarded by the Justices of Peace, 23 Eliz.
Lam. 585.

Judgement.

Ambiguity arising in judgement betwixt
the justices of Peace, they shall forbear to
proceed till the Judges come; but if they will
proceed, the judgement is not void, but must
be reversed, Lam. 588. the commission is null.

Where the statute appointeth a punishment,
there judgement must be according to the
statute, Lam. 570.

Upon trespasss, riots, and such other offen-
ces, where no forfeiture is prescribed, judge-
ment is to be taken and ransomed, Lam. 570.

Vide plus the several offences.

Juglers, vide Licence.

Jurors.

Jurors both for enquiry and trial, ought to
be *Probi & legales homines*, Lam. 396.

What persons may not be Jurors
and being Jurors make prestat-
ment's void, unless there be a verdict
besides.

1. Attainted in conspiracy,
2. Attainted in treason,
3. Subornation of perjury,
4. Concealment they be not probi, & their prestat-
ment's void, unless there be a verdict besides.

6. Outlawed, 7. Abjured, 8. Condemned in a *Præsumptio*, 9. Attainted of treason, 10. Tolly, &c. *ibid.* 11. Women, 12. Infants under 14 years of age, 13. Aliens, 14. Clergy-men *ibid.*

Jurors must be inhabitants or free-holders within the County, to the value of 10 s. *per annum*, but in Cities and Boroughs to the value of forty shill. in goods, *Lam.* 396, 397.

Jurors for trial of an indictment within the County Palatine of Lancaster must have 10 pound *per annum*, *ib.*

Juror 70 years old or decrepit returned by the Sheriff must serve if the Just. will, but he may sue the Sheriff upon the Statute of Westminster 2. c. 38. *Lam.* 397.

Juror exempted by Charter with these words *Licet teneat nos*, is to be discharged upon his appearance, but he ought to shew it to the Sheriff, *ibid.*

When there is want of sufficient Jurors, no exemption can discharge, *ibid.*

Presentment is good though some of the Jurors be allied to him that procureth the presentment; but it is no discretion in the Justices to suffer any such to be impanelled, *Lam.* 398.

If the particular Juries for the hundred cannot be supplied by those of the hundred, it is better to take *Tales de circumstantibus* of other hundreds, then to be renewed with a *Tales* from Sessions to Sessions, *Lam.* 398.

Jury of one hundred may present an offence done in another hundred, *Lam.* 399.

Justices may command the Sheriff to array the panel, & he refusing forfeiteth 20 pound, *ibid.* 398. 12.

All the Jurors must be sworn, otherwise their presentments are void: but the Record, being that all the Jurors were sworn, the presentments are good though all be not sworn, Lam. 399.

Juror after he is sworn, upon cause may be removed by the Justices, Lam. 400.

Jury after swearing adjourned to another time, may be then sworn again, *ibid.*

Jurors of enquiry must be twelve, but there may be more, and it is best to have them odd, Lam. 400.

If twelve Jurors do agree, the residue cannot gain-say, *ibid.*

Juries of enquiry ought not to be committed to a keeper, not kept without victuals, nor carried out of the town, but may be adjourned to another place to give up their verdict, Lam. 400.

Jurors which do wilfully conceal offences presentable, and which be complained of by bill, may be enquired of by persons whereof every one may dispend forty shill. per annum; and such concealment being found within a year after, every Juror shall be amerced in open Sessions, 3 Hen. 7. c. 1. Lam. 400, 401.

Jurors that discover what they have done, are to be fined, Lam. 401.

Juror taking any thing to make a favourable presentment, shall be imprisoned and ransomed, Lam. 441. Cro. B. 4. s. 5. Ed. 3. c. 10.

No Juror to be returned without an addition whereby he may be known, 27 Ed. 7. Lam. 432.

Vide plene Challenge.

Justices

152. Justices of the Peace.

Justices of the Peace were created 1 Ed.
1. 5. Dal. 6. Lam. 20.

Justice of Peace is Judge of Record, Dal.
Cro. 120. 2. Ann. 1. Lam. 62.

He may take a recogniz. of Peace, which
none can do but a Judge of Record, Dal.
Lam. 186. Cro. 196. 1. Ann. 1.

His warrant is not disputable by the Col-
stable, but it is to be understood when the
Just. of Peace hath jurisdiction of the case,
Dal. 8. Cro. 147. b. Lamb. 65, 91.

His testimony in some cases is of as great
force, and in some cases greater than an in-
dictment of 12 men upon oath, as in the
cases of force, riots, presentments of high-
ways, Dal. 9. Lam. 65.

The authority granted to the Justices of P.
by commission doth determine by death of
the King, or at the Kings pleasure. As to be
discharged by Writ under the great Seal. By
Super Session. By granting a new commission
and knowledge thereof, Dal. 11. Cro. 188.

Lam. 69.

2. By publishing the new commission at Al-
lizes or Sessions, in any County Court.

3. By holding open Sessions by virtue of the
new commission, Dal. 11. Cro. 188. 3. Lam. 69.

4. By accession of another officer, as being
Sheriff or Coroner of the County, Cro. 11.
Lam. 13, 14, but so doth not the addition of a
greater name of dignity, as Knight, Sergeant
at Law, Cro. 188.

Exercising the office of a Just. of Peace be-
fore oath taken, is fineable, Dal. 15, 352.

Justice of Peace hath not authority but in
the County where he is Justice, Dal. 23.

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Justice

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or Felony, *Dal.* 23. *Cro.* 120. b. *nn.* 12.

Justice of Peace is not to intermeddle in any City or Corporation which have their proper Justices, *Dal.* 23. *Crom.* 8. a. *nn.* 30. 181. b. 189. a. *Lam.* 47. *Cro.* 121. a. *nn.* 20. 182 P. & M. c. 18.

Justices of P. ought not to execute their offices in their own case, *Dal.* 352. *Cro.* 68. a. *nn.*

Yet a Justice of Peace being assaulted, may commit the offender to prison, *Cro.* 68. a. *Lam.* 134 *Dal.* 352.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his own possession, and commit the offender, *Cro.* 67. b. 68. a. *nn.* 4.

Justice of Peace chargeth one that maketh an assault or affray, to keep the peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour, *Dal.* 195.

Justice of Peace must proceed by the precept of the commission and statute, *Dal.* 20.

Where the statute referreth the trial to the Justice of Peace his discretion, it seemeth he may examine upon oath, *Dal.* 12. 155.

One Justice of Peace ought not to bind one to appear at the Q. Sessions to answer his fault committed against a penal law, except the statute of Labourers, *Lam.* 187. *Dal.* 339.

Every Justice of Peace is a conservator of Rivers within his County, *Lam.* 189.

Justice of Peace not giving remedy to the party grieved in a cause that may be heard, determined,

determined, and executed by him, upon complaint to the Judges of Assize, or the Lord Chancellor, is to be put out of commission by the Lord Chancellor, and punished according to his desert, 4 H. 7. c. 11. Lam. 370. C. 120. b. m. 6. Dal. 353.

One Justice of Peace may command fine suit, hue and cry, and search to be made by officers and others, after thefts, robberies; in joyn watches for the arresting of suspected persons and night-walkers, high-waisted and enlarged, that two Constables be chosen in every Hundred; forbid Fairs and Markets in Church-yards, command all between 13 and 60 to be sworn to the peace, charge the Constable to arrest all such as be suspected to be draw-latches, wasters, or robbers of man. Lam. 185.

Justices of Peace taking bond in his own name, and not *Domino Regi*, in a cause touching the King, is to be imprisoned, 33 Hen. 8. c. 39. Lam. 102, 143.

Justice of Peace at their Sessions are of equal authority, Lam. 385. Vide Cro. 122. a. m. 33.

Justice of Peace must send his prisoner to the common goal, Lam. 133. 5 H. 4. c. 10.

A felon is brought before a Justice of Peace upon suspitions: though it appear to the Justice he is not guilty, yet he may not set him at liberty, but so as he may come to his trial. Lam. 233. Dal. 279, 304, 353. Cro. 40. b. m. 20.

otherwise it will prove a voluntary escape from the Justice; for he is not to be delivered by any mans discretion, Dal. 3. Lam. ac. supra.

A man is arrested for felony by a Constable or other, who afterwards hath knowledge

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that there is no such felony done, the opinion of *Justice Comby*, and *Serjeant Frowyk* was, that he might set him at liberty: but if one be killed, and another be arrelled for suspicion, though after he know the arrelled is guilty, or was arrelled for malice, he ought not to set him at liberty, but must be delivered by course of law, otherwise it is felony, *Cro. 46. 20. b.*

A Justice of Peace dwelleth, or is in another county, he cannot cause one to be brought before him out of the county where he is Justice into another county, *Dal. 23. Cro. 20. 21. 12.*

What things Justices of Peace ought to do ex officio.

Record a demurrer upon the evidence, *Lam. 539.*

Give day to the party to bring in a Record before other Justices, which is pleaded by way of justification, *Lam. 539.*

If thinking an enditement to be void, they have discharged the prisoner, paying his fees; (upon change of their opinion) they may lay him any time before judgement, *Lam. 540.*

Justices of Peace ought not to suffer the King to be disadvantaged, if they may lawfully prevent it, *Lam. 540.*

In absence of the Kings Atturney, the Justices of P. may take issue with one that pleads a pardon, that he is one of the parties excepted, *Lam. 540.*

Justices of Peace cannot acquit felons by proclamations.

proclamations; but if no prosecution be made, are to keep them till the coming of the Justices of gaol-delivery, *Lam. 55.*

Justices of P. may enquire of all manner felonies at the common law, or given by statute, and of all manner of trespasses against the peace of the King, and of such trespasser wherein action of the case will be for trespass or deceit; for in the end of the writ grounded upon the case, it is contained *pacem nostram, Cro. 8. a. m. 25.*

Justice of Peace shall be punished for conspiring with another to indict a stranger at the Sessions: but not for a thing done by him in Sessions as a Judge, *Cro. 122. a. m. 32.*

One Justice of Peace rebukes another: neither he, nor any of his fellow Justices can commit him, for all are by one authority; and therefore hath no remedy if the King will remove him: but if one Justice abuse another in open Sessions, it seems the rest may bind him to the Peace, *Cro. 122. a. m. 33. 34. Lam. 385.*

Defaults against the statute *3 Hen. 6. c. 10.* for levying of wages for Knights of the shire are to be heard and determined by enquiry of the King, or action for the party before the Just. of Peace, *Lam. 512.*

Justice of P. needs not to shew his commission, by which he is made Justice, when he justifieth the doing of any thing as a Justice; for he is Justice of Record and the commission remaineth with the *Justices of the said County*, and he is called to the commission in open Assizes and Sessions, *Cro. 120. b. m. 13. Lam. 387.*

Justice

Justice of Peace hath a Record in his hands, and is discharged of his office, he cannot certifie the same without a Writ of *Cartuarii* although he be made Justice afterwards, Cro. 121. a. nu. 15. & 132. a.

Justice of Peace may have his action of the Case against him that calleth him *False Justice of the Peace*. It seemeth also that he may be indicted: for they may enquire of all trespasses, where a man may have his action of the Case, Cro. 121. a. nu. 21. & 122. a. nu. 29.

Quicquid Justiciarius fecerit de Recordo, garantur & pro defectu scientie, non erit pro punitus. Sicut accidit de Seneschallo libertatis Abbatis de Crowland, qui colore libertatis de Insangthese, judicavit hominem mori contra legem pro eo libertas seista fuit in manus Regis, & nulla poena Seneschallo, Cro. 121. b. nu. 24. Justiciarius non potest puniri pro re per ipsum judicialiter: sed Officiarii, ut Vicecomes, & alii Officiarii de Recordo erunt puniti, Cro. 122. a. nu. 28.

Justice of Peace certifieth into the Kings Bench, that such a man broke the peace in his presence, the party shall be put to his oath without any Traverse to the same, Cro. 122. a.

Justice of Peace who is of the *Quorum*, ought to be resident within the County where he is Justice of the *Quorum*, 2 H. 5. c. 1. Cro. 122. a. nu. 34.

Justice of Peace was put out of Commission in *Camera Stellata*, for that he refused to take surety of the peace of one that came before him, who offered to find surety of the

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‘ the peace ; for that the Justice which granted the warrant was not his friend , and thereupon would not go before him to be bound, *Cro. Jurisd. of Courts*, 31. b.

‘ One Just. of Peace upon his view of forcible detainer may record the same by 15 R. 2. c. 2. but in case of Riot or Rout, &c. there must be two Justices of Peace with the Sheriff or Under Sheriff, 13 H. 4. c. 7. *Cro. 61. b. nñ. 9.*

‘ Justice of Peace commandeth one upon pain of 10 li. by his precept , to be at the next Quarter Sessions, and he appeareth not. No *Scire facias* shall go forth more than there had been a *Subpœna*: but it seemeth that he shall be attached to be at the next Sessions , upon an accompt , *Cro. 123. nñ. 9.*

‘ An affray is made within a Corporation Town , whilst the Sessions be held there , and that Town hath Justices within it self the Justices of Peace shall not intermeddle there : but otherwise it is at the Assizes, *Cro. 146. b.*

Laboures and Servants.

One Justice of Peace may cause all artificers and other persons meet to labour by his discretion, to work by the day in hay and corn-harvest time. or imprison the refusers in the stocks for two daies and one night. *5. El. c. 4. Dal. 77. Lam. 475.*

The Constable refusing to stock them loseth 40. shill.

One Justice of Peace under his hand and seal may licence labourers in hay and harvest time to go into another country to work, *Dal. ibid.*

One Justice of Peace upon complaint may compel meet persons to be bound as apprentices to husbandry, or any other art, &c. and for refusal commit them to ward, there to remain untill they be bound to serve according to the statute, *Dal. 77. 5 El. c. 4.*

One Justice of Peace may take order betwixt the master and apprentice: for want of conformity in the master, bind him over to the Q. Sessions, where four Justices, one being of the Quorum, may discharge the apprentice: and if fault be in the apprentice, inflict due correction, *Dal. 78.* but if the first Justice find fault in the apprentice, *quære* if he may by 7 Jac. c. 4. send him to the house of Correction, as an idle disorderly person, *Dal. 78.*

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure within his term, *Dal. 79. 5 Eliz. c. 4.*

But an apprentice must be discharged by four Justices of Peace in open Sessions, *ibid.*

One Justice of Peace may command vagrant persons to prison, if they will not serve, *Dal. 81.*

One Justice of Peace may make his Warrant to attach a servant departing, to be at the Sessions, or may send him to the house of Correction, *Dal. 78.*

Two Justices of Peace, upon complaint that a servant departed before the end of his term except 1. cause be allowed by one Justice of Peace; or 2. at the end of his term, without

one quarters warning before two witnesses, or 3. hath refused to serve for the wages appointed by proclamation, according to the statute; or 4. hath promised to serve accordingly, and doth not) may examine the matter, and may commit without bail such person till he be bound to serve and continue, and then he is to be discharged without bail to the Goaler, *Dal. 79. Lam. 330.*

Two Iustices of the Peace may imprison the master for 10 daies, without bail, and the servant for 21 daies, that giveth or taketh greater wages then are allowed by stat. *Dal. 79. Lam. 330.* and the master loseth 5 li. 5 s.

All retainer, promise, or paiment of wages, or any other thing contrary to statute, and every writing and bond for the purpose void, 5 *El. c. 4. Dal. 79.*

Two Iustices of Peace may imprison for year or less any servant, workman, or labourer, that doth make assault or affray upon his master, or any that hath the charge or oversight of them, or of the work, being proved by the confession of the party, or oath of two, *Dal. 79.*

Or the Iustices at the Sessions may inflict other punishment.

One Iustice may binde the offender to the good behaviour, and so to the next Sessions, *Dal. 79. Lam. 330. & 473.*

Two Iustices may compel any woman of the age of 12 and under 40 being unmarried to serve by the year, week, or day, for such wages as they shall think meet, or commit her to ward till she be bound, *Dal. 80. Lam. 330, 331.*

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The retainer of any to serve in the arts of
Cloathing, Wooll-weaver, Tucker, Fuller,
Cloath-worker, Sheerman, Dier, Hosier,
Tailor, Shoemaker, Tanner, Pewterer, Baker,
Brewer, Glover, Cutler, Smith, Farrier, Cur-
rier, Sadler, Spurrier, Turner, Capper, Hat-
maker, Felt-maker, Bowyer, Fletcher, Arrow-
head-maker, Butcher, Cook, or Miller for
less then a year, is void, 5 *El. c. 4. Lam. 473.*
Dal. 79.

* No person shall interrupt, deny, let or di-
sturb any free or rough Mason, Carpenter,
Bricklayer, Plaisterer, Joyner, Hard-hewer,
Sawyer, Tiler, Pavier, Glasier, Lime-burner,
Brick-maker, Tile-maker, Plumber, or La-
bourers born in the Realm, or any Deni-
zon, to work in any of the said crafts, in any
City, Borough, or Town Coporate. with
any that will retain him or them, though
they do not inhabit or be free there, upon
penalty of 5 pound the one moiety to the
King, the other to the informer, 5 *El. 8.*
c. 13.

Any unmarried, or under thirty years and
married, are compellable to serve in any of
the said arts, or to be imprisoned untill they
will serve 5 *El. c. 4.* upon request of any per-
son using the said trades, except the person
be lawfully retained with some other, or
have 40 shillings *per annum* in lands, or 40
pound in goods, or some farm in tillage, *Lam.*
473. Dal. 79.

None retained in husbandry to depart at
his time into any other limit, town, or parish,
without testimonial, on pain of 21 daies im-
prisonment, and to be whipped, if then he
H. 3. brings

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brings none; and receiver of such loseth 5 *l.*
Lam. 474. Dal. 85.

Labourers not working so many hours as they ought, lose 1 *d.* an hour, *Lam. 474. 5 El. c. 4.*

Servant falling sick, or *non potens corporis*, the master may put him away, nor abate his wages, *Dal. 84.*

Any taking work by great, and departing unlawfully before the work be finished, loseth 5 *l.* and is to be imprisoned for a month, *Lam. 474. 5 El. c. 4.*

Any taking an apprentice contrary to order of law, or exercising an art not being apprentice therein 7 years, loseth 10 *l.* 5 *El. c. 4. Lam. 475. Cro. 83. a.*

Servant departing into another shire, is indicted for it in the County whence he departed; the Justices of Peace may award *Capias* to the Sheriff of that shire whereunto he departed, returnable before themselves, 5 *El. c. 4. Lam. 525.*

The sufficiency of the cause of the master putting away of his servant, or the servant departing from his Master within his term, must be proved at the Quarter Sessions, *Lam. 610. 5 El. c. 4.*

Household servant spoileth the goods of his deceased master, and after proclamation in the Kings Bench maketh default of appearance there; it is felony, but not enquirable by the Justices of Peace, 33 *H. 6. c. 1. Lam. 281, 548. Dal. 286.*

A man not able nor sufficient to keep a servant, doth retain a servant; such retainer is void, *Dal. 82.*

Retainer

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Retainer of a servant in husbandry without expressing any term, shall be for one year, *Crom. 184. a. Dal. 83.* it is according to the statute, *5 El. c. 4.*

One retaineth a servant for 40 daies, and afterwards another retaineth him for a year; the first retainer is void, *Cro. 184. a. Dal. 83.*

A servant cannot be discharged by his master without his own agreement, or for some cause allowed by a Justice of Peace, *Dal. 84.*

An apprentice cannot be discharged by his master but by writing, for an apprentice cannot be but by writing, *Dal. 84. Crom. 184. b. 185. b.*

A servant put away shall have his proportional wages for the time he served, but it must be by the help of a Justice of Peace, *Dal. 84.*

A servant of his own accord departing from his service, loseth all his wages, *Dal. 84.*

A servant refusing to do his service, it is a departure in law, though he stay still with his master, *Dal. 84.*

Detaining of wages, or of meat and drink, is good cause of departure, but to be allowed by a Justice of Peace, *Dal. 84. Cro. 185. a.*

A woman married after she is retained, must serve out her time, *Cro. 184. b. Dal. 82.*

No servant in husbandry, artificer, or victualler, nor any labourer shall carry any buckler, dagger, or sword, on pain to forfeit the same, but for defence of the Realm, or travelling with their master, or about their masters business, *12 R. 2 c. 6. Cro. 185. b. 76. b.*

Any two Justices of Peace may give their consents with the Churchwardens and overseers, or the greater part with them, to bind as apprentices the children of poor parents, till the age of the man-child of 24, and of the woman till 21, 39 *El.* 3. *Lam.* 331. 43 *El.* 2. *Dal.* 83.

Retainer according to statute, though no wages be spoken of, is good, and shall have wages according to the proclamation, *Dal.* 84.

Retainer not being according to statute, is void, except it be by Indenture, *Dal.* 84.

Retainer upon condition is good, *Dal.* 84.

Retainer without expressing in what office, is good, *Dal.* 84.

Retainer for life is good, *Dal.* 84.

Retainer for a year to serve when he shall be required, is not good, *Dal.* 84.

By Retainer the servant is presently in service, though he comes not into his masters service indeed, *Dal.* 84.

The executor (the master dying) must pay wages to the servant hired according to statute, not otherwise, except it be by Indenture, *Dal.* 84.

Larceny.

Larceny is the felonious and fraudulent taking another mans personal goods, removed from his body and person, without his will, to the end to steal them, *Lam.* 272. *P. R.* 129.

Personal goods are	{	Wholly a- { Dead,
		nothers { Alive,
		His own, yet also a property in another,

Dead

Dead
goods,

In their own nature chattels, as
mony, plate, household-stuff, *Lam.*
273. wooll severed from the sheeps
backs, to take the skin and leave
the body, the flesh of tame or wild
fowl or beast, *Lambert* 275. goods
of the Church, Parish, or of an un-
known person, *Lam.* 276.

Once no chattels, and made chat-
tels by the owner, as mowed corn,
mowed hay, wood felled, apples ga-
thered, &c. *Lam.* 276.

Alive,

Tame, as horses, beasts, sheep, swine,
pullen, *Lam.* 273, 274.

Wild, & made tame by

Art,
Restraint
of liberty.

By art,
as

A tame deer by common law,
Lam. 274.

By statute a falcon, taroelet, lan-
ner, lanneret, lost without bringing
it to the Sheriff to be proclaimed,
Lam. 274.

By restraint of their liberty, as young pige-
ons, young herons, young hawks out of their
nests, fish in a trunk, stew, or pond, *Lamb.* 274.

Amans
own
goods,

Where he hath given a special
property to another, as by bail-
ment, pawning, &c. and feloniously
taketh it again, *Lam.* 277. *Dal.* 270.

Where one coming lawfully to
the possession, by lending altereth
the property, as by melting of bor-
rowed plate, and the lender taketh
the metal feloniously, *Lam.* 277.
Dal. 270.

*In what goods Larceny cannot
be committed.*

In goods of { Profit,
Pleasure.

Goods of { An owner: & they are { Real.
profit, as {
where is { No owner, as treasure trove,
wrecked, strayed, *Lam. 276.*

Real { Distinct from the free hold, as
are { charter of land or a ward, *Lam. 275.*
{ Annexed to the free-hold, as
apples on the tree, a tree growing
lead from a house or from a Church
Lam. 276.

Personal, as wild things using their wild-
ness as pigeons flying hawks not reclaim-
ed, fishes in the River, *Lam. 274.* Phe-
sants, Partridges, Hares, Conies, Herons
Swans, Deer that are abroad, *Lam. 275.*
Dal. 270.

Goods of pleasure, as Dogs, Apes, Parrots
singing birds, a Diamond, Ruby, or other
stone not set in Gold or Silver, *Lam. 275.*
Dal. 269.

Larceny is { Grand larceny,
{ Petty larceny.

Grand larceny is, where the thing stolen
above the value of 12 d. and is punishable by
death, *Dal. 262.*

Petty larceny, if the thing stolen exceed
not 12 d. and is punishable by the discretion
of the Justices before whom he is a. r. g. n.
ed

and forfeiteth his goods, *P. R. 129. Dal.*

Divers petty larcenies put in one indictment, and above the value of 12 pence, are punishable by death *P. R. 129. Lam. 273. Dal.*

Divers found guilty of one larceny above 12 pence, they all must die for it, for that felony is several in law, even as those others severed in act, *Lam. 223. Dal. 263.*

What acts do amount to larceny.

To carry away the plate delivered to me in a tavern to drink in, *Lam. 278. Cro. 35. b. 4. Dal. 263.*

To carry those things one is hired to carry, to another place then he was hired, and there feloniously to convert them to his own use, *Em. 279. Dal. 264. Cro. 36. a. nu. 10.*

A servant not being an apprentice to go away with the goods of his master above 40 shill. which were in his custody, *Lam. 279, 280. Dal. 264.*

Carrier to convey away or convert to his own use the goods after they are brought to the place appointed by the owner, *Dal. 264. Lam. 279.*

He to whom the key of ones chamber door is delivered, openeth the door and taketh away the goods, *Lam. 279. Dal. 266.*

A servant receiving 20 li. in gold of his master to keep, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, viz. money, *Dal. 265. Cro. 30. a. Lam. 280.*

A guest is harboured, who carrieth away his

his sheets out of his chamber, with purpose to steal them, and is taken in the house, *Dal.* 266. *Cro.* 35. a. *nu.* 2 *Lam.* 281.

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40 shill. or converteth them to his own use, *Dal.* 265. *Cro.* 50. *Lam.* 281.

A Carrier embeze's. part of the goods committed to his charge, *Dal.* 264. *Cro.* 36. a. *nu.* 11.

A servant receiveth of his master a piece of cloath to keep, and he maketh a garment therewith, and goeth away therewith, *Cro.* 50. a *Dal.* 265, 266.

A servant taketh away or spoileth the goods of his deceased Master; upon default of appearance in the Kings Bench after proclamation, it is felony, *Dal.* 266. 33 *H.* 6. c. 1. *Lam.* 281.

Taking an horse feloniously, and apprehended before he get the horse out of the close, *Lam.* 282. *Dal.* 267.

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledge he presently forsake her and his house, *Lam.* 282.

What acts do not amount to larceny.

One having goods bailed unto him, converteth them all to his own use, *Cro.* 36. a. *nu.* 11.

A Carrier conveyeth the goods to another place then he was hired, and there converteth them to his own use, *Lam.* 278. *Dal.* 264. *Cro.* 36. a. *nu.* 11.

An obligation or wares delivered to a servant, who receiveth the money or selleth the wares, and runneth away with the money, *Dal.* 265. *Cro.* 35. b. *nu* 50. a. *Lam.* 280.

A wife stealeth goods in the company of her husband, or by his command; *quare* if it be without his compulsion, *Lam.* 282. *Dal.* 272.

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larceny in neither, *Lam.* 282. *Dal.* 272.

Goods stolen by an infant under 12. a lunatick during his lunacy, a mad man, and deaf and dumb, *Lam.* 282. *Vide Dal.* 273.

Riding away with a lent horse, *Dal.* 264.

A clothier delivereth Wooll or yarn to his work-folks, who embezel or sell part thereof, *Dal.* 264.

Goods delivered to another to keep, and he consumeth them, or converteth them to his own use, *Dal.* 264. *Lam.* 278.

So money or goods delivered to one to deliver to a third person, and the first receiver stealeth away with them, or converts them to his own use, *Dal.* 264.

A servant hath a horse delivered by his Master to ride to market, or money to go to a fair to buy cattel or other, or to pay to another man, and the servant goeth away therewith; *quare* if it be felony by statute, *Dal.* 265.

A receiver receiveth his masters rents, and stealeth away with them, *Dal.* 266. *Cro.* 50. a.

Butcher that gasbeth, slaughtereth, or cutteth the hide of the ox, steer, bull or cow, whereby it is impaired, loseth 20 pence; or that watereth any hide except in June, July, or August, or putteth to sail any putrified or rotten hide, loseth for every hide 3s. 4d.
1 *Fac.* 22. *Lam.* 462.

Butcher using the said craft and also the mystery of tanner, loseth every day 6 shill. 8 pence, *ibid.*

Tanner using also the mystery of a shoemaker, currier, butcher, or any artificer using the cutting or working of leather, loseth the hides and skins tanned, *ibid.*

Every person, other then such as had a tan-house 29 *Martii* 1603. and did then occupy tanning of leather, or hath been taught as an apprentice, or hired servant 7 years in this mystery, or hath been wife or son of a tanner brought up in this mystery 4 years, or the son or daughter of a tanner, or such as hath married the wife or daughter of a tanner, having left to them his tan-house and fats, that tanneth any leather, or taketh any profit by tanning, loseth all the leather tanned by him.
Lam. 462, 463. 1 *Fac.* 22.

None may buy, contract for, or bespeak any rough hides or calves-skins, but only tanners or tawers of leather, except salt hides for the necessary use of ships, on pain of 6 shillings 8 pence for every hide, 1 *Fac.* 22. *Lam.* 463.

None shall forestall any hides coming to market, (except of such as kill for the provision of their house) on pain of 6s. 8d. for every hide, 1 *Fac.* 22.

None may buy tanned leather nor wrought, but such as will convert the same into made wares (except necks, and shreds of saddlers and girdlers) upon loss of all the leather, *Lam. 463. 1 Jac. c. 22.*

Tanner suffering any hide to lie in the tan-limes till the same be over-limed, or that putteth any hides into the tan fats before the lime be perfectly wrought out of them, or useth any thing in tanning but onely Ash-bark, Oake-bark, Tapwert, Malt, Meal, Lime, Culver-dung, or Hen-dung, or hath suffered his leather to be frozen, or to be parched with the fire or summer sun, or hath tanned any rotten hides, or hath not suffered the hides for outward sole-leather to lie in the woozes twelve months, and for the upper sole leather nine months, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requisite, or hath put to sail any tanned leather, not wrought according to the statute, shall lose the hides or value of them, *1 Jac. c. 22. Lam. 463. 464.*

Tanner that raiseth with any mixtures any hides to be converted to backs, bend-leather, clouting-leather, or any other sole-leather, except the same be fit and sufficient for that use, loseth the hides, *1 Jac. c. 22. Lam. 464.*

Any that putteth to sale, exchangeth, or otherwise departeth with any tanned leather red and unwrought, being in open fair and market, unless it be searched and sealed in some open fair or market, or putteth to sale any leather not searched and sealed according

according to the statute, loseth for ever hide or piece of leather six shillings eight pence, and also for every twelve calves skins or sheep-skins, three shillings four pence, and also for the hides and skins, or their value, 1 *Jac. c. 22. Lam. 464.*

Tanner putting to sale any leather insufficient, or not thoroughly wrought and tanned, or not well and thoroughly dried, and the same so found by the triers appointed, 1 *Jac. c. 22.* loseth so much as is insufficient, *Lam. 464.*

He that setteth his fats in tan-hills or other places where the woozes or leather to be tanned in the same may take any unkind heat, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth ten pound, and is to stand in the Pillory three market-daies, 1 *Jac. cap. 22. Lam. 464.*

Felling oaks meet to be barked where bark is worth two shillings a load, above the charges of barking and pilling, (timber for necessary buildings, and reparations of ships, houses, or mills excepted) but between the first of April and the last of June, loseth every tree or double the value, 1 *Jac. c. 22. Lam. 464, 465.*

Currier that currieth any leather but in his own house situate in a corporate or market-town, or hath curried any leather not well tanned, or not thoroughly dried after his wet season, or hath used in such wet season any deceitful means to corrupt the same, or hath curried any outward sole-leather with any other stuff then hard tallow, or less of that

that then the leather will receive, or inner
 loose-leather, or upper leather but with good
 stuff being fresh and not salt, or hath not li-
 quored them thoroughly, or hath scalded or
 shaven too thin, or gasht in shaving or other-
 wise, or not wrought sufficiently any leather,
 loseth six shillings eight pence, and the va-
 lue of every skin marred, except gashing in
 shaving, and for such gashing double as
 much as the leather is impaired, 1 *Inc. cap. 22.*
Stat. 465.

Currier that during the time that he useth
 currying, useth the fear of a tanner, cordwai-
 ner, shoemaker, butcher, or other artificer
 using cutting of leather, loseth 6 shillings 8
 pence each hide, *ibid.*

Currier refusing to curry within 8 daies
 in summer, and 16 daies in winter, perfectly
 any leather brought by any cutter of leather,
 or his servant, bringing with him good stuff
 for perfect liquoring of the same, loseth 10
 shillings for every hide.

Shoemaker that maketh any Boots, Shoes,
 Buskins, Startups, Slippers, or Pantofles, or
 any part of them of English leather wet cur-
 ried, (other then Deer, Calves, or Goats-
 skins dressed like Spanish leather) but of
 leather well tanned and curried, or well tan-
 ned onely, and well sewed with thred well
 twisted, waxed, and refined, with the stitches
 hard drawn with hand leathers, without
 mixing neat and calves leather in the over-
 leather thereof; or hath put into any shoes,
 boots, &c. any leather made of sheep-skins,
 bull-hide, horse-hide, or into the upper-lea-
 ther of any shoes, slippers, or pantofles, or
 into

into the neather part of boots, (the inner part of the shoes onely excepted) any part of the womb, shank, neck, flank, pole, or cheek of any hide, or into the outer sole other then the best of the ox or steer hide, or into the inner sole other then the necks, womb, pole or cheek; or in trefwels of the double-soled shoes other then the flanks of any the said hides; or hath put to sale any year between the last of September and the twentieth of April any shoes, boots, &c. meet for a person above four years old, wherein hath been any dry English leather, other the calves or goats-skins dressed like spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3 shill. 4 pence for every pair, and the just value, 1 *Inc. cap. 22. Stat. 465. 466.*

Every Lord of fair or market, that doth not appoint and swear yearly two or three honest and skilful men to be searchers and sealers of leather there, and fix honest and expert men to try the said leather, loseth 40 pound, *Lam. 466.* Such triers as do not their duties therein without delay, lose 5 pound for default, *Lam. 467.*

Searcher or sealer so appointed, refusing with speed to seal good leather, or allowing insufficient leather, loseth 40 shill. or receiving any bribe or exacting any undue fee for execution of his office loseth for every offence 20 pound; or refusing to execute the said office being duly elected, loseth 10 pound, *Lam. 467.*

He that will not suffer a searcher to enter

into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registering the same, and the price thereof, lo-
 sth the value of the leather, *Lam. 46. 7. 1.*
22. cap. 22.

Leets.

Steward of a leet cannot grant surety of the peace, unless it be by prescription; but he may commit him to ward that shall make an assay in his presence whilest he is in execution of his office, or bind him to the peace, or to his good behaviour, *Lam. 14.*
 He may also take presentment of an offence against the peace, *ibid.*

In every leet or market, there ought to be a pillory and tumbrel, and for want thereof the Lord of the leet or market shall make a fine to the King, *Dal. 151. Cro. 149.*

Lent, *vide* Fish-daies.

Liberties and Franchises.

Liberties and Franchises be such which have return of Writs, and not such as are Counties of themselves, as London, York, Norwich, &c. nor towns which have by grant of the Kings Justices of Peace so that no other Justice do intermeddle, *Cro. 8. a.*
30. Dal. 23. 2 & 3 P. & M. c. 18.

Justice of Peace may execute his authority within any liberties, not being a County within it selfe, and it is good, but the liberty may have their remedy against him, *Lam. 47.*
48. Dal.

48. *Dal.* 23. *Cro.* 8. *J. nu.* 30. 181. b. 119.

Libellers.

A man finding a Libel against a private man, must presently burn it, or deliver it to some Magistrate, *Dal.* 195.

If against a Magistrate or publick person, to deliver it to some Magistrate, that by examination the author may be found out, *Dal.* 194.

Libellers (it seemeth) may be bound to their good behaviour as disturbers of the peace, whether they be contrivers, procurers, or publishers of the libels; for such libelling and defamation tendeth to the raising of quarrels and effusion of blood, and special occasions to the breach of the peace, *Dal.* 194.

Libelling is by scandalous writings, by book, ballad, epigram, or rhyme; 2. by scandalous words, as scoffs, jests, taunts, or songs; 3. by hanging up of pictures or signs of reproach neer the place where the party traduced doth converse most, as gallows, Cucking stool, pillory, horns, or such like, *Dal.* 194, *Cock* 5. *fol.* 125.

Licenses.

Two Justices of the Peace may licence poor diseased persons to travel to the Baths for remedy of their grief, so as they be provided of relief for their travel, and beg not, 39 *El.c.* 4. *Dal.* 101. *Lam.* 332. 1 *luc.c.* 25.

Justice of Peace dwelling neer where any person having suffered shipwrack shall land, may and ought to make a testimonial under his hand to such persons of the landing, &c.

and thereby to licence them to pass the next direct way to their place of birth or dwelling, and limit them a convenient time for their passage, *Dal.* 100, 127. *Lam.* 303. 39. *El.* 4. 39.

11. c. 17. 1 Jac. c. 25.

No Justice or Justices of Peace (as it seemeth) can in any case licence any poor man to wander, or beg at all, *Dal.* 101, 127. *Lam.* 303. 9. *El.* c. 4. 17.

Convicted for abusing of a licence of transportation of victual, shall be committed for a year without bail or mainprize, *Lam.* 349. 1. 2 P. & M. c. 5.

Licences for badgers, drovers, &c. are to be granted in open Quarter Sessions by three Justices of Peace whereof one of the Quorum, and shall not endure above a year, unless the same be yearly renewed, 5 & 6 Ed. 4. 5 *El.* c. 12. *Lam.* 610. *Vide* Badgers.

Linnen cloth.

He that causeth to be used any racking, beating, or casting any deceitful liquor, or other means on any kind of linen cloth, whereby it becometh deceitful, or the worse for use, forfeiteth such cloth, & is to have imprisonment for a month at the least, and to be fined according to the Justices discretion, 1 *Elix.* 12. *Cra.* 90. a.

Lying in a way, *vide* Way-lying.

Log-wood, *alias* Block-wood.

Suspected to have offended against the Statute for Log-wood, upon information to a Justice of Peace, the suspect, or his servant or work-

work-man may be called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examiners shall be bound over to the next Goal-delivery or Quarter Sessions, and there be judged to forfeit twenty pounds, and Pillory one or more market-daies, or upon refusal to be bound to be committed to the Goal till he will be bound, 39 *El. c. 11. Lam. 613. Dal. 48.*

Any two Justices of the Peace, where any Log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned, 23 *El. c. 9. Dal. 48. Cro. 198. b.*

Long bows.

Any above the age of 24 years shooting at standing pricks under eleven-score yards with any prick, shaft or flight, loseth six shillings eight pence, 33 *H. 8. c. 9. Lam. 481.*

Masons.

The causing of masons to congregate themselves in chapters, is felony, *Lam. 227. 3 H. 6. c. 1.*

Mainprise, *vide* Bailment.

Maintainers and Embracers,

Maintainers and embracers of a Jury enquiring of a riot, forfeit twenty pounds, and to be committed to prison, and to remain according to the discretion of the Justices, 19 *H. 7. c. 13.*

The

The Justices which shall sit upon the inquisition of riots with the Sheriff or Under-Sheriff, ought to certifie the names of the maintainers and embracers of a Jury, with their misdemeanours which they know, by which the truth of the said riot is not found, upon pain of 20 pound for every one that hath not a reasonable excuse, 19 H. 7. c. 13. Cro. 199.

Maintainers of quarrels and embracers of Jurors are to be imprisoned, and bound to the good abearing, 33 H. 8. c. 10. 37 H. 8. c. 7. Lam. 440.

Maintenance is where any man giveth or delivereth to another that is plaintiff or defendant in any action, any thing to maintain his plea, or else maketh extreme labour for him where he hath nothing to do therewith, *Terms of the Law*.

Embracer is he that when a matter is in trial between party and party, cometh to the barre with one of the parties, having received some reward so to do, and speaketh in the case, privily laboureth the Jury, or standeth there to survey or overlook them, thereby to put them in fear and doubt of the matter; but men learned in the law may speak in the case of their Clients, *Terms of the Law*.

Maim.

He that hath maimed another of any member, whereby he is less able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot or hand, or finger, or joynt, or if a foot or any member be cut, or by some wound the sinews be made shrink,

shrink, or other member, or the fingers made crooked, or if any eye be put out, or the fore teeth broken or beat out, or any other thing be hurt in a mans body, by means whereof he is made the less fit to defend himselfe, or defend his enemy, he and his accessaries shall be grievously fined, *Lam. 429. Terms of Law.*

Justices of Peace cannot upon an indictment of maim, make the trial by their own view and inspection, as the Justices of the Kings Bench may do, *Lam. 532.*

If Justices of Peace stand in doubt whether the hurt be a maim or not, they may use the help and opinion of some skillfull Chirurgon to consider thereof, *Terms of Law.*

Indictment of maim Must be felonice maimavit, *Co. 101. a. m. 3.*

Malt.

If any Bailiff or Constable of any borough or other town shall finde any malt made contrary to the Statute, 2 & 3 E. 6. 16. 8. *Elix. 14.* then with the advice of any Justice of the Peace within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices under the common price of the Market, as to their discretion shall seem convenient, *Lam. 202. Dal. 16. 21. Fac. c. 28.*

Any two Justices of Peace may duly convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of malting made in open Q. Sessions and shall committ him to prison without bail or mainprize for three daies, until he become bound in forty pound to perform such restraint.

restraint, 39 *El. cap. 16. Lam. 332, 202. Dal.*
6.

The Justices of Peace or the greater part of
them, may in open Quarter Sessions restrain
the converting of barley into malt, 39 *El. c.*
6. *Lam. 613. Dal. 86.*

Malt must be three weeks in the fat, on the
floor sleeping and drying, except in June,
July, August, and then 17 daies, or lose 20
pence for every quarter, *Lam. 451. Dal.*

No insufficient malt mingled with good
malt must be put to sale, 2 & 3 *E. 6. c. 16. &*
El. c. 4. Lam. 452. Dal. 87.

No malt shall be put to sale that is insuffici-
ently trodden, and out of which for every
quarter hath not been fanned one peck of
chaff, *ibid.*

Manlaughter, *vide* Homicide.

Mariner.

Mariner coming from beyond the seas, or
sea-faring man having suffered shipwrack,
and in want, may be licensed by the next Ju-
stices of Peace to his landing, to ask relief
on his journey home-wards, 39 *Eliz. 4. Lam.*
127. 1 *Fac. c. 28.*

No fisher-man to be taken for a mariner by
the Kings commission, unless chosen by the
next Justices to the place where he is to
be taken, 5 *El. 5. Lam. 359. Dal. 87.*

Mariner departing from his Captain with-
out licence, or wandering idly without, or
with a forged licence, knowing thereof, is a
felon, 39 *El. 17. Lam. 227.*

Any poor Mariner or Souldier coming from beyond the seas, that shall repair to his place of birth, &c. and cannot there get work, two Justices of the Peace next adjoining may take order to set him to work, and for want of work tax the whole Hundred for his relief, till sufficient work may be had, 39 *El. c. 17. Lam. 359. Ds. 138.*

Mariner forging a Testimonial, or carrying the same knowing it to be forged, it is felony, *Lam. 228. Ds. 289. 39 El. c. 4. & c. 17. 1 Jac. c. 7.*

Mariner landing, and not having a Testimonial under the hand of some Justice of Peace neer the place of his landing, setting down 1. the time and place of his landing, 2. the place to which he should pass, 3. the time for his travel, 4. or exceeding the time 14 daies, it is felony, 39 *El. c. 17. Ds. 289. Lam. 303.* But if he have such a Testimonial, and pursue the same, he may and take such necessary relief as shall be given him, 39 *El. c. 17. Lam. 303.*

Vide Felony by Statute.

Market-overt.

He that is owner, &c. of any fair or market where horses, geldings, mares, or foals to be sold, and doth not yearly assign one open place where the said horses, &c. shall be sold, and one to take Toll, who shall continue there from 10 in the morning until sun-set, forfeiteth 40 shil. for every day, 2 & 3 *M. c. 4. Cra. 91. a. Lam. 471.*

To alter the property of any stranger in horses and all other goods, they are

Sold in such a place or shop as is commonly
used for selling goods of the same kinde ,
Dal. 74.

Sale in fair or market doth not take away
the owners property, the buyer knowing that
it was anothers, *Dal. 74.*

Vide Horses.

Marriage.

If any married person marrieth another,
the former wife or husband being alive,
except the husband or wife have been be-
yond the seas seven yearstogether, or hath
been absent within the Kings Dominions
seven yearstogether, the one not knowing
the other to be alive, or was at such mar-
riage lawfully divorced, or the former mar-
riage by sentence Ecclesiastical declared to
be void, or was had within years of con-
sent, it is felony, *1 Jac. II. Lam. 421.*
Dal. 289. Cro. 52. a. without corruption of
blood, loss of dower, or dis-inheriting any
their.

Mafs.

To sing Mafs, forfeiteth 200 marks and
years imprisonment. To hear it, forfeiteth
20 marks and like imprisonment, *23 El. c.*
am. 413.

For the discovery of any who hath been
Mafs, *vide Jesuites.*

Master, v. Servant and Labourers.

Measure, *vide Weight.*

184 Misprision of Treason.

Messages false.

Two Justices of Peace one being of the *Quorum*, may (as it seemeth) bind over to the next Q. Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such or bind them to the next Q. Sessions, *Dal.* 47. 33. 8. c. 1. *Vide plus Cozenage.*

Milch-Kine, *vide Calves.*
Minstrels, *vide Rogues.*

Misprision.

Misprision is properly, where one knows that another hath committed treason or felony, but was not consenting thereto, and will not discover the offender to the King or his Council, or to some magistrate, but conceals the offence, *Dal.* 234. *Stam.* 37. *Terms of Law*, 131.

A Chaplain fixed an old seal to a new Patent of non-residency, it was holden misprision of Treason, *Terms of Law* *ibid.* *Dal.* 234.

Knowing money to be counterfeit, and bringing it out of Ireland into England, and uttering it in payment, is misprision of treason, *Terms of Law* *ibid.* *Cro.* 44. b. *Stamf.* 3 H. 7. 10.

For misprision of felony he shall only be fined, *Dal.* 234. *Terms of Law*, *ibid.* *Cro.* 44.

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of Judgement, *Dal.* 231.

Misprison of Treason. 185

To strike a Jurior in presence of the Justice sitting in place of Judgement, *Dal. ibid.*

To strike one in Westminster-Hall, any of the Kings Courts sitting, *Dal. ibid.*

In all which cases the offender shall lose his right hand, and shall have judgement as in misprison of Treason, *Dal. 234.*

A stranger rescuing one arrested by a Justice upon an affray sitting in place of Justice, whereby he escapeth, it is misprison of Treason, *Dal. 231.*

For offenders in high Treason, misprison of Treason, *Premunire*, though Justice of Peace cannot meddle in the very point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyned with some other Justice of Peace, to take the offender, examination and information upon oath of such as bring them, or others that can prove any thing material, and put it in writing under the hands of the informers, and commit the offenders to Goal, and send over those which prove any thing material to appear before the Lords of the Council, or elsewhere to give evidence upon reasonable warning, and to certifie their doings to some of the Lords of the Council or elsewhere. *Dal. 235.*

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, or the Romish Religion, or moved them to withhold obedience to any other estate, or refused to do any of them, and doth not

within 20 daies disclose it to some Justice of the Peace, or higher officer, it is misprison of treason, 23 *El. c. 1. Lim.* 412.

Within six weeks after any Bull or other instrument of reconciliation hath been offered, not to reveal it to some of the privy Councel, or Presidents of the North, or Wales, is misprison of treason, 23 *El. cap. 1 Lim.* 413.

Misprison of Felony.

He that seeth one killed by another, or robbed, or any other felony committed, and is not of their confederacy, and doth not make resistance, or disturb the felon, or levy hue and cry, but conceal the same, it is misprison of felony, and fineable, 14 *H. 7. c. 31. Cra. 44. Dal.* 296.

A man foreknoweth of a felony to be done, and concealeth it, & it is effected; it is misprison of felony, *quare Cro. 41. b. 44. 5. Dal.* 296.

Every treason or felony doth include misprison, so that where any hath committed treason or felony, the King may cause the offender to be indicted and arraigned but of misprison, *Cro. 44. b. Dal.* 234. *Stamf.* 37. d.

Mitigation of fines and forfeitures
vide Lamb 577.

Mittimus.

Mittimus must contain the names of the parties, their offences, and time of imprisonment, that it may appear whether the

ner be bailable or not, *Lam.* 297. *Cro.* 153. a.
22. 11. Da. 315, 396.

If one be committed without bail or main-
 prise, and the cause is expressed in the *Mitti-*
mus, and yet is bailable, other Justices of
 the Peace may bail him: yet *Quare*, seeing
 their authority is equal, *Dal.* 315.

The form of the *Mittimus*.

To send felons to the Goal, *Lam.* 220. *Dal.*
 394.

To send rioters to the Goal, *Lam.* 321

To send shooters in peeces, *Lam.* 297. *Dal.*
 398.

To send upon forcible entry, &c. *Lam.* 150.

To send to the house of Correction, *Dal.*
 396.

To send an Ale-seller without licence, *Da.*
 387.

To send a reputed father of a bastard, *Dal.*
 392.

Monasteries, v. Religious houses.

Mortuaries.

Spiritual person not to take mortuaries or
 any thing for them, where they have not
 been used to be payed, or where the goods of
 the dead are under ten marks; taking above
 3 shill. 4 pence where the goods are under
 30 pound, or above 6 shill. 8 pence where
 they are above 30 pound and under 40 li. or
 above ten shill. where they are above 40 li.
 he shall forfeit all taken above his due, and
 40 shill. to the party grieved, 21 H. 8. c. 6.
Lam. 435, 436.

Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felony, 5 H. 4. c. 4, Lam. 227, 426.

Murder.

Murder is when one man upon malice pretended, premeditated, or premeditated, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the party slain be English or alien, Lam. 237. Cro. 21. a. nu. 1. Dal. 241, 239.

The killing shall have relation to the death and not to the stroke, Cook 4. 42. Cro. 21. 1. nu. 1.

Malice is { Expressed, Cro. 21. a. Dal. 241.
or
{ Implied, Lam. 239.

Malice expressed is when it is known that there is malice between them, Cro. 21. a. and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed, Dal. 241. Lam. 238.

Malice implied is when one is killed suddenly without defence, Dal. 241. Cro. 21. a. nu. 1.

As where one killeth another without provocation, Lam. 239. Dal. 241.

One baffled, as reading, going over a stile, &c. killed, Cro. 27. a. nu. 20. Dal. 241.

One stabbed, not having weapon drawn, 1 Jac. c. 8.

To kill an officer known, in executing process, Dal. ibid.

To kill an unknown officer if he shew his warrant; and if an officer hath the Kings writ or lawful warrant, though it be erroneous,

out,

us, and slain in executing it, it is murder,
Lam. 240. Dal. 241.

To kill any magistrate or minister of justice in executing his office, or in keeping the peace, *Dal. 242. Cro. 25. b. nu. 51.*

A rioter killeth an officer or an assistant coming to suppress a riot, it is murder in all the rioters, *Cro. 23. b. nu. 28. Lam. 241. Dal. 242.*

A Constable parting an affray, or any of his company coming to aid him, although it was suddenly and in the night, *Cro. 25. a. nu. 51. Dal. 241.*

A thief killing a true man in resisting, it is murder of malice prepensed, *Lam. 241. Dal. 241. Cro 22. 3. nu. 13.*

1 A man carried his sick father into the roost, whereby he died *Lam. 240. Dal. 242.*

2 An harlot hid her child, and covered it with leaves, and a Kite struck it and killed it, *Dal. 242. Lam. 240.*

3 The owner knoweth his beast to be accustomed to hurt, and doth not tie him up, and after the beast killeth a man, *Lam. 239. Dal. 242.*

In these three cases, voluntas reputabitur pro facto, for it sheweth that they had a will to hurt, and the will doth amount to malice, Dal. ib. and so to murder.

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder, for he slew him in the said malice wherein he did assault him, *Lam. 239.*

One condemned to die is killed by a private person without warrant, or by the Officer

contrary to the judgement; it is murder, *Lam.* 240.

Prisoner killed by his Goaler by over-keeping, it is murder, *Lam.* 240.

One commandeth his servant to beat a man, who beateh him so that he dieth thereof; it is murder in the commander, *Dal.* 241. murder in both, if it be in the commanders presence, *Lam.* 241.

Many come to doe an unlawful act, but one in doing thereof killeth a man; it is murder in all, although they did but look on, *Dal.* 245, 253. *Cro.* 22. a. *nu.* 10. 24. b. *nu.* 43. *Lam.* 241. *Stam.* 40. If they be not present, yet they be in the same house or upon the same ground it is murder in all, *Dal.* 245. *Cro.* 24. *nu.* 5. *Lam.* 241.

All present and aiding, abetting or comforting another to do murder, are principals, *Dal.* 245. *Lam.* 243. *Cro.* 22. a. *nu.* 15.

Two appoint the field, and meet, and bring company with them, and one of them is slain; it is murder in all that came with the murderer, *Dal.* 245.

Murder is intended to one, and he killeth another, it is murder, *Lam.* 243. *Dal.* 244.

A. woundeth B. in fight, and after they meet suddenly and fight; if B. kill A. it is murder, for it is intended malice upon the former hurt; but if A. kill B. it is but manslaughter, for the hurt did appease his former malice, *Lam.* 241, 238. *Dal.* 243.

Two in fact meet and quarrel, and the defendant killeth the plaintiff; *quære* if it be murder, *Dal.* 244.

Two fight upon notice, and one of them killeth

leth one that came to part them; it is murder in both, *Dal.* 244. *Lam.* 242.

The owner rebuked one stealing his pears, who killed the owner; it was adjudged murder, *Dal.* 245. *Lam.* 241. *Cro.* 24.3. *nn.* 24.

Poisoning of another wilfully whereby he dieth, is and was murder by the common law, *Dal.* 244.

The party poisoned must die within a year and a day after the receiving of the poison, *Dal.* 246.

After the beating or hurting another, to make murder, or other homicide, the year and the day is reckoned from the stroke given, *Dal.* 246. *Cro.* 23. b. *nn.* 54.

An appeal hath relation to the death, *ibid.*

A Roman delivered of a bastard, endeavouring privately either by drowning or by secret burying to conceal the death thereof, as that it may not come to light, whether it were born alive or dead, but be concealed, shall suffer death as in case of murder, except he make proof by one witness that the child was born dead, 21 *Fac. c.* 27.

Justices of Peace may take Endictment of murder as of murder, *Lam.* 493.

A man hath a horse that will strike such as come near him, his master knowing it, rideth among people, the horse killeth a man, it is felony in the master, *Dal.* 242. *Lam.* 230. *Cro.* 24. b. *nn.* 45.

Indictment of murder must expressly have *murdravit*, for *ex malitia praeconitata*, & *voluntate*, & *felonice interfecit*, is not sufficient, *Co.* 101. a. *nn.* 4.

Musters.

Convicted before the Justices of Peace
offence against the Statute of musters, he
be imprisoned 10 daies without bail, unless
pay the forfeiture being 40 s. which is
absence without reasonable excuse, or
shewing his best furniture being comman-
ed, 4 E 5 P. & M. c. 3. Lam. 349, 482.

The party that sueth upon the Statute
musters, is to recover the forfeiture belonging
unto him, by action, or bill of debt, *ibid.* Lam.
583.

Name.

THE names and surnames of the party
indicted must be certainly expressed; and
if the indictment be of an accessory in felony,
the name of the principal must be set down
also, Lam. 488, *Vide* Additions.

Nets, *vide* Hunting, Partridges
and Pheasants.

News.

Contriver, speaker, or teller of false or
counterfeit news, whereof discord, &c. may
arise betwixt the King and his Nobles, or any
other false news, lies, or other false things of
Prelates, Dukes Earls, & Barons, &c. whereof
discord and slander may arise within the
realm, shall be imprisoned till he finde out
the author; and if he cannot find him, shall
be

punished by the advice of the Council,
*H. 1. 3 Ed. 1. c. 33. 2 R. 2. c. 5. 12 R. 2. c. 1
 1 & 2 P. & M. c. 3. Dal. 326.*

Next Justice.

Where the Statute of 13 *H. 4. c. 7.* willeth
 the Just. of Peace most nigh in every Coun-
 ty, where such riot or rout shall be, to do ex-
 ecution of the Statute under pain of 100 li.
 any other Justice, that be not next unto
 the place shall execute the Statute, it will ex-
 cepte the next, because all have power alike,
 by the first part of the Stat. *Lam. 326, 327.
 Dal. 111. P. R. 30.*

Night-walkers, *vide* Watches.

Noble Personages.

A Nobleman's promise to keep the Peace
 hath been held sufficient, *Dal. 165. Lam. 81, 82.*

A Justice of Peace may not grant warrant
 of the Peace against a Lord of the Parlia-
 ment, *Dal. 165.*

Nor against a Dutcheſs, Counteſs, or Ba-
 roneſs; for they are Peers of the Realm, and
 ſhall be tried by their Peers, and have the
 ſame priviledges that Dukes, Earls, and Ba-
 rons have, *Dal. 166.*

Dutcheſs, Counteſs, or any Noble by birth,
 marieth with a Gentleman, ſhe loſeth not her
 name of dignity: but if ſhe be made noble-
 ly only by marriage, and her huſband dying,
 ſhe marry a Gentleman, ſhe loſeth her dignity,
Q. 110. a. Dal. 166. Vide Clergy, that a No-
 bleman may have his Clergy for any felony,
 except willful murder and poisoning.

None

194 Obedience to the King.

‘None are noble under the degree of a Baron, *Lam.* 539.

Non sanæ memoriæ.

There be three sorts of persons *Non sanæ memoriæ*, or *non compotes mentis*, *Dal.* 248.

1. A natural fool, who is so from his birth.
2. He that was once of sound memory, and after by sickness, hurt, or other accident or visitation of God loseth it.
3. A lunatick, *qui gaudet lucidis intervallis*, and sometimes is of good understanding, and sometimes is not *compotes mentis*.

Nusance.

Every man may in a peaceable manner assemble a meet company to do any lawful thing, or to remove or cast down any common Nusance, *Dal.* 224. *Cro.* 66. a. *nn.* 64.

‘One is indicted of Nusance, and acknowledged it, infinite distress shall go to the Sheriff to remove it, and he shall not be received to his fine, till the Sheriff return that it is removed, *Cro.* 186. a.

Obedience to the King.

IF any practice to absolve, perswade, or withdraw any from their natural obedience to the King, or (for that intent) from the religion now established here, to the Romish religion, or to move them to promise obedience to the See of Rome or other estate, or if any have been willingly so absolved, or have promised such obedience, it is treason, 23 *El.* c. 1. *Lam.* 412. *Cro.* 18. a.

Colere

Colore Officii.

When officers take any thing *Colore officii*, mistaken in *malam partem*, and is extortion, and the office is but a veil to cover the fault: but when it is *ratione* or *virtute officii*, then it is in *bonam partem*, Cro. 57. b. nn. 2.

Ordinary.

His Fees, *v* *the* Fees.

The Ordinary oweth not his attendance at the Sessions of the Peace, as he doth at the coal-delivery, Lam. 395, 396.

The Court may allow Clergy in strictness of Law, though the Ordinary or his deputy be not there, Cro. 118. b. nn. 44. Stam. 13. a.

A felon adjudged to be hanged, in failing to read, may in favour of life have the benefit of Clergy at the Gallows. By which it appeareth, that the Ordinaries presence is not of necessity. But this is intended where the felon is adjudged in the Kings Bench, not at the Assizes, for their commission endeth with their Sessions: but before Justices of Peace, it seemeth he may have his Clergy at the Gallows, for their Commission continueth, and may allow Clergy without an Ordinary, Cro 116. a. nn. 54, 56. Stam. 132. b. v. ea or e reprieved may pray his Clergy at the next Assizes, Cro. *ibid.* nn. 59. The Judges are Judges of the Clerks reading, and not the Ordinary. For if the Ordinary say that he readerh, and cannot, he shall be hanged, and the Ordinary fined, Cro. 115. a. nn. 49. *Vide* *plus* Clergy. Extortion.

Oath.

You shall swear that the surety of the Peace which you require against *A. B.* is not of any malicious intent, for vexation, but for very fear, and for the needful preservation of your body and goods in safety; so help you God, *Lam. 83.*

Oath of the Justices of P. *vide Dal. 13.*

Oath of Supremacy, *Dal. 14.*

Oath of Constables and Churchwardens is to be enlarged, *vide Tiplers.*

Oath of Allegiance, *Dal. 15. 3 Fac. cap. 4 Fac. c. 6.*

The *Custos Rotulorum* or any two Justices of Peace, one being of the Quorum, may take the oaths of Under-sheriffs of their County, their Bailiffs, Deputies, Clerks, or under officers, before they shall exercise their said offices, *Dal. 138. Sec 27 El. c. 12. the form of the Oath.*

Quare if Justices of the Peace may examine upon oath sureties of their sufficiency, *Dal. 171.* Justices of Peace in their Sessions may do it, *Co. 194. a. Br. imprisonment 18.*

Default of Under-sheriffs, their Clerks, Bailiffs, &c. in not taking the oaths for execution of their office, is to be heard and determined at the Quarter-Sessions, *27 Eliz. c. 12. Lam. 615.*

Under-sheriffs, Bailiffs, &c. doing any thing contrary to their oaths, lose to the party grieved treble damages, *27 El. c. 12. Lam. 433.*

Where the refuser of the oath of Allegiance shall incur a *Præmunire*, *vide Præmunire.*

Refuser of the oath of Allegiance is disabled to execute any place of judicature or office being no office of inheritance or ministerial

of function, or practice of the Law Civil or Common, or the science of Physick, Surgery, or the art of Apothecary, or any liberal science, 7 *Lac. c. 6.*

One Justice of Peace to whom complaint is made, may commit to the gaol without bail till the next Assizes, gaol-delivery, or Quarter Sessions, any above the age of 18 years (under Baron or Barones) which stand presented, indicted, or convicted for not coming to church, or not receiving the Communion, which by the Minister, pety-Constable and church-warden, or any two of them, shall be complained of to any Justice of the Peace, and by him suspected, may "by such Justice be required to take the oath of allegiance, and may be committed without bail till the next Assizes, for refusing the oath of allegiance, *Lac. c. 6. Lam. 129. Dal. 82, 107.*

Two Justices of the Peace, one being of the quorum, may require any person of the age of 18 or above, under the degree of a Baron or Barones, to take the oath of allegiance, and in refusal to commit him to the gaol without bail till the next Assizes or Quarter Sessions; *Lac. c. 6. Lam. 363.*

Where the examination of a Justice of P. is for the conviction of the party, there it ought to be upon oath: but where it is but to inform the jury upon the indictment, it needeth not, *Lam. 536. Dal. 159.* Though the statute doth not expressly say it shall be upon oath, *Dal. 159.*

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence. For,

If

198 Overseers of the Poor.

If the examine die before the trial, the examination may be evidence; without oath many will speak coldly. It is the practice of the Courts in Westminster, *Dal.* 307 & 308. *Cro.* 194. a. n. 5. *Lam.* 213, 214, 215. *Br.* Examination 32.

The refusing the oath of allegiance required by two Justices of the Peace, and the taking of the same and oath of supremacy by a conformed Recusant returning into England are to be certified at the next Qu. Sessions 7 *Inst.* c. 6. *Lam.* 362, 363, 616.

The oath of allegiance being required at the Q. Sessions of such as formerly refused, the same, and being there tendered and refused, the refusers (either then Noblemen and women) incur *Premunire*, except women covert, who are to be sent to the gaol without bail, *Lam.* *ibid.*

Orchards and Gardens, *vide* Hedge-breakers.

Overseers of the Poor.

Overseers for the poor for every parish are to be nominated yearly in Easter week, within a month after, by two Just. of P. one being of the *Quorum*, under their hands and seals, dwelling in or neer the Parish, 43 *E. c.* 2. *Lam.* 360. *Dal.* 91.

Overseers and Church-wardens with two such Justices, may set to work children such as are not able to keep them, and married and unmarried which have no means to maintain them; and may raise weekly stock or otherwise by taxation

every inhabitant, and dispose thereof, *ibid.*
 Overseers and Church-wardens (not let-
 ted by sickness or other just excuse allowed
 by two such Justices) shall meet monthly in
 the Church upon Sunday after Evening
 Prayer, to consult about ordering of the
 poor, or forfeit 20 shillings a piece. 43 *El.*

cap. 2.

Any finding himselfe grieved with the
 taxation made by the Overseers, &c. or by
 the Justices, may have remedy at the Quar-
 ter Sessions, 43. *El. c. 2.*

In disability of the parish the two Justices
 may tax any other parish within the Hun-
 dred. If the Hundred be not sufficient, the
 greater part of the Justices of Peace in other
 Sessions may rate other parishes, 43 *Elix.*

cap. 2.

Overseers and Churchwardens either pre-
 sent or subsequent may by warrant of two
 such Justices levy all sums and arrearages of
 any refuser by distress and sale of his goods.
 In default of distress, two such Justices may
 commit him without bail till payment made,
 43. *El. c. 2.*

Overseers may be committed till they
 do account, 43 *El. c. 2.*

All to whom the overseers by 43 *El. 2.* may
 bind apprentices, may take and keep them as
 apprentices, and the overseers may with the
 assent of two Justices of Peace, one being of
 the *Quorum*, in their respective limits where
 there be more then one, or by assent of
 one Justice of Peace where there be no more,
 set up, use and occupy any trade, mystery, or
 occupation, onely for setting poor of the
 parish

parish on work wherein they are overseen,
3 Car. c. 4. Vide Poor.

Pannel, *vide* Jurors.

Pardon.

AT the Common Law before the Statute of 13 R. 2. Stat. 2.c.1. a pardon of all felonies was good for murders, and so for petty treasons, Lam. 561.

Pardon of all felonies is not good for murder or petty treason, except the pardon be with a *non obstant*, or that murder be therein expressly mentioned, Dal. 246. Cro. 21. b. m. 7.

But it is good for accessaries, both before and after.

A pardon of all felonies will not discharge a man that is attainted of felony, except the execution and attainder be pardoned, Cro. 115. a. m. 1. Lam. 562. Dal. 245.

Breaker of the peace after the pardon, forfeiteth the pardon, and may be hanged notwithstanding his pardon, Cro. 115. b. m. 16. Dal. 247.

The King only can pardon treason, murder, or other felony, or any accessory thereto, Dal. 247.

General pardon is that which is given by act of Parliament to all men, of which the Court ought of duty to give allowance, though the party will not plead it nor accept the benefit thereof, Lam. 559, 563. Cro. 115. b. m. 13.

Pardon of abjuration is not good without special

cial words of abjuration, *Lamb. 562.*

Quere if a general pardon for pety treason availe him that is indicted of murder, without the word *proditorie*, *Lam. 560.*

A general pardon (coming betwixt the stroke and the death) of all misdemeanors, will avail for the death, *Lam. 560.*

Quere if a pardon of all offences (except felonies outlawed of murder) will avail one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry, *Lam. 560. Cro. 116. b. m. 17.*

Pardon of attainder and execution for felony is not good for felony, without words to pardon the felony it self, *Lam. 562.*

Pardon of a Goaler for escapes of felony and traitors, is not good for voluntary escapes, *Lam. 562.*

Pardon of two for all felonies done by them, or either of them, will not serve for offences done by one of them alone, *Lam. 562.*

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for pety treason, murder, nor for one attainted of felony, *Lam. 561.*

A special pardon ought to be pleaded under the great Seal, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unless there be a dispensation by *non obstante*, *Lam. 561.*

Prisoner pleadeth a pardon, Justice of Peace in absence of the Kings attorney may joyn issue that he is one of the persons excepted, *Lam. 540. Stam. 103.*

He

He that killeth another *se defendendo*, shall not sue to the King for a pardon, *Stam. 15. Lm. 253.*

He that killeth one by misadventure, shall have a pardon of course without suit, *Stam. 16. Stat. of Glo. c. 9.* in both cases the goods are forfeited.

The manner of suing a pardon of course. If they desire to purchase their pardon, they must upon their trial plead not guilty, and then the special matter being found by verdict, they shall be bailed, then they may sue forth a *Certiorari* to certify the record to the Lord Chancellour, who shall make them a pardon of course under the great seal without suing to the King, *Stam. 15. Dal. 250.*

Park and Parker.

Hunters or killers of any Deer or Conies the night or day-time in any park or warren or in any other inclosed grounds, and being there of lawfully convicted, every such offender shall suffer three months imprisonment and find sufficient surety for the good behaviour for the space of seven years, or else continue in prison till he find such sureties for the space of seven years, and pay treble damages, or (if 'it be for deer) 10 li. to the party grieved, at his election, *5 El. c. 13. 7 Jac. c. 13. Dal. 326. Vide Hunting.*

Parson and Vicar, *vide Ecclesiastical causes.*

Partridge

Every Justice of P. may examine offences against the Statute of 13 *Eliz. cap. 10.* for taking of partridges and pheasants in the night, and binde the offenders by recognizance with good surety to appear at the next Quarter Sessions, &c. And after conviction and punishment take bond with sureties, that for two years after they shall not offend against the said Statute, *Dal. 87. Lam. 200. 13 El. cap. 10.*

By 1 *Jac. cap. 27.* 1. He that shall shoot at, kill, or destroy with any gun, cross-bow, long-bow, or long-bow, any partridge, pheasant, house-dove, pigeon, heron, mallard, duck, teal, widgeon, growse, heath-cock, moor-game, or any such fowl, or hare. 2. Or shall take, kill or destroy any partridge, pheasant, house dove or pigeon with setting-dogges and nets, or with any manner of nets, snares, engines or instruments. 3. Or shall take or willingly destroy the eggs of any pheasant, partridge, or swan. 4. Or shall race or course any hare in the snow, or shall take or destroy any hare with cords or such instruments. 5. Or shall keep any greyhound for deer or hare, or setting dogges or nets to take Pheasants or partridges, not having lands of inheritance of 10 pound, or 30 pound *per annum* for life, or in goods 200 pound, or be the son of a Knight, or son and heir apparent of an Esquire: any of the said offences being proved by the parties confession, or oath of two witnesses before any two Justices of Peace of the County where the offence shall be committed, or the party apprehended, shall be imprisoned for three

three moneths without bail, unless he with upon his conviction pay to the use of the poor there 20 shill. for every hare, fowl, or egge, and 40 shill. for having every such hound, setting-dogge, or nets, or after the months imprisonment be bound with sureties not to offend in any the said particulars; which recognizances taken by two Justices of the Peace, must be returned at the Quarter Sessions, 1 *Iac. c. 27. Dal. 89. Lamb.*

By 7 *Iac. c. 11.* proof of one witness is sufficient for the taking of partridges and pheasants with setting-dogges and nets, or other snares, or engines, &c. the punishment is 1 *Iac. 27. Lamb. 334.*

Killer of partridges or pheasants with hawk or dogs, by colour of hawking, between the first of July and the last of August, upon conviction within six months after the offence by the confession of the party, or oath of two witnesses before two Justices of Peace, is to be imprisoned one month without bail; unless he pay presently to the Church-wardens and Overseers of the poor where he offended or was taken, 40 shill. for hawking, and twenty shill. for every partridge or pheasant taken 7 *Iac. cap. 11. Lamb. 335. Dal. 88.*

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by low-bell or trammel, and there to let them go again, loseth 20 shill. a pheasant, and 10 shill. a partridge, 11 *H. 7. cap. 7. & 23 El. c. 10. Lamb. 447.*

Hawking in corn before it be cropped without consent of the owner, loseth 40 shill. *ibid.*

Taken

Taker, killer, or destroyer, by guns, bows, setting-dogs, nets, or other engines, of any partridge or pheasant, except the owner of a Warren, Lord of a Mannor, or having land so of inheritance in his own or his wives right of the clear yearly value of forty pound, or for life of eighty pound, or goods worth 400 pound, and their household-servants authorized by them within their own grounds in the any-time onely betwixt Michaelmas and Christmas, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Justices of Peace next the place of offence or apprehension, to be imprisoned three months without bail, unless he pay immediately unto the churchwardens and Overseers of the poor of one of the said places, 20 shillings, and be bound to the King by recognizance in twenty pound never to offend again: the same to be certified at the next general Quarter Sessions,

Fac. c. 11.

Buyer or seller of hare, deer, partridge, or pheasant (except partridges or pheasants bred or brought up from beyond the seas) for every deer 40 shill. pheasant 20 shill. hare or partridge 10 shill. one moiety to the former, the other to the poor of the parish,

Fac. c. 27.

Constable by warrant from two Justices of Peace may search the houses of any not allowed, suspected to have any setting dogs or nets for partridges, and finding them, may take, carry away, detain, kill, or cut in pieces any of them, *Fac. c. 11.*

Offences against the statute of *Fac. c. 27.*

K

punished

punished by it, are not to be punished by the former, and are to be heard and determined by Judges of Assize in their Circuit, Justices of Peace at Quarter Sessions, or two Justices of the Peace out of the Sessions, 1 Jac. 2.

‘Who may take partridges and pheasants in their own ground, and when, *Vide 7 Jac. 2. cap. 11.*

Peace.

‘Every private person that shall be present at any affray, assault, or battery, ought to aid them that fight; and if he take hurt, he shall have his action: but if they resist him, he may not hurt them, *Lam. 131. Dal. 33.*

Every man may stay the affrayers, till the heat be cooled, and then they may deliver them to the Constable to imprison them, if they find sureties of the Peace; but they may not imprison them unless the one of them be in peril of death by some hurt, for then any man may carry the other to the Goal till he be known whether the other will live or die, *Lam. 131. Dal. 33. Br. Cro. 225.*

He which hath mortally hurt another, or thrust him into another's house, any man that pursues him with hue and cry, and break open the house, enter, and take him. *Dalt. faith.* The Constable may, *Lam. 131, 132. Dal. 34.*

‘If an affray, forcible entry, or any other thing in disturbance of the peace be done in the presence of a Justice of Peace, he may record it, and certify the same, and may commit the parties presently, *Dal. 89.*

Affray.

‘If the Justice of Peace certify into the

Kings Bench that I. S. hath broken the peace, upon that Certificate I. S. shall be there fined, without allowing him any traverse, *Dal.* 89.

Peers, *vide* Noble personages.

Pedlers, *vide* Rogues.

Perjury.

Procuring any unlawfully to commit wilful perjury in any case depending in Court Record, Leet, Court-Baron, Hundred-court or ancient demesne, or hath corruptly borne any witness sworn to testify *in pernam rei memoriam*, or if any have upon such procurement, or by his own act wilfully committed such perjury, the procurer shall forfeit 40 li. and if not worth so much, half a years imprisonment without bail, stand upon the pillory for one hour, and be disabled for witness for ever after, 5 *El.* c. 9. & 14 *El.* c. 11.

The perjured 20 li. and six months imprisonment, and ever disabled for a witness; and not worth 20 li. to have his ears nailed to the pillory, 5 *El.* c. 9. & 14 *El.* c. 11. & 1 *ac.* 25. *Lam.* 416. *Cyc.* 18. a. b. This offence to be heard and determined in the Quarter Sessions, *Lam.* 609.

Execution of the forfeiture upon the statute perjury, to be awarded by the J. of the P. before whom the conviction was, *Lam.* 585.

Committing of perjury upon answer to bill of complaint is not within the statute 5 *Eliz.* but for a false deposition upon

examination upon interrogatories, *Crom. 18. b. nu. 3.*

If any give false evidence upon a bill of indictment at the Sessions, it is held he shall not be punished by the statute of 5 *Eliz.* for that the King is not named in the said statute. *Cro. 18. b. nu. 5.*

If an officer take other fees then are allowed and incident to his office, he committeth perjury, *Cro. 57. b. nu. 7.*

A man is attainted of perjury, the King pardons and restores him. *Quare* if his testimony shall be allowed against a prisoner for Once forsworn, ever forlorn, *Cro. 100. Da. 305.*

Petty-treason.

The wilful killing or joyning in killing the husband by the wife, the master or mistress by the servant, the Ordinary by the clerk, is petty-treason, 25 *E. 3. c. 2. Lam. 246. Dal. 236. Cro. 19. b. nu. 1.*

The child maliciously killeth the father or mother it is petty-treason though the father or mother at the same time give neither meat, drink, nor wages to the said child but it is petty treason in the said child in respect of the duty of nature violated, *Dal. 236. Cro. 19. b.* But *Lam.* saith it is not treason against the child, if the father give it not meat or drink, as to a servant, *Lam. 245.* and doth no business for it is as a servant. 21 *E. 3. 17.* for mistress by *Lam.* opinion.

The son or daughter in law kill the father or mother in law with whom they dwell and do service, and have meat and drink

petty treason, though such child take no wages; but the inditement shall be by the name of servant, *Dal.* 237.

Judgement in petty-treason is, a man is to be drawn and hanged; if a woman, both in high treason and petty-treason, to be drawn and burned, *Lam.* 570. *Dal.* 237.

The forfeiture for petty-treason is, the King shall have all his goods, and for his lands *annam, diem, & vastum*, and the escheat thereof shall be to every lord of his proper estate, *Dal.* 238.

No clergy is allowed in case of petty-treason, *Dal.* 237.

Pewter, *vide* Brass.

Physician.

One neither Physician nor Chirurgion taketh upon him to cure a sick or wounded man, who dieth under his hand, it was felony until, 34 *H.8.c.* 8. *Lam.* 240. *Dal.* 243.

But if a smith or other having skill onely curing and dressing diseases of horses, or other cattel, shall take upon him cutting or letting blood, or such like cure of a man, who dieth thereof, it seemeth to be felony, *Dal.* 243.

Pictures brought from Rome, *vide*
Agnus Dei.

Plays and Players, *vide* Unlawful
games, *vide* Rogues.

K 3

Plague

Head-officers and Justices of Peace in a corporation, or in a privileged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or privileged place, or liberties thereof, for the reasonable relief of persons infected, or dwelling in houses infected within the said corporation or privileged place, 1 *Jac. cap. 31. Law* 337.

Corporation or privileged place not being able to relieve the persons infected therein, upon certificate of the head officer, or Justices of Peace, or two of them to the two next Just. of the Peace, the said two Justices may assess and tax the inhabitants of the county within 5 miles of the corporation at a weekly tax for the relief of them, 1 *Jac. c. 31. Law* 337.

There being no Justice of Peace in the corporation, or the infection being in a hamlet, the two next Justices of the county may assess the inhabitants of the county within five miles of the place infected, for the reasonable relief thereof, 1 *Jac. c. 31. Law* 338.

The taxes, upon refusal, to be raised by warrant of the head-officers or Justices upon the goods of the refuser, or upon default of goods returned, the party by another warrant to be imprisoned, till he make payment thereof with the arrerages, 1 *Jac. cap. 31.*

Taxes made for the relief of places infected are to be certified at the next Q. Sessions, and there to be continued, enlarged, or extended to other parts of the County, or determined

the greater part of the Justices, 1 *Iac. c. 31.*
am. 609.

Taxes levied of the county for the relief of
 infected corporation, are to be disposed by
 the head-officer and Justices of the corpora-
 tion, or two of them; and if there be no Ju-
 stice, then by the Justices assessors, 1 *Iac.*
c. 31.

Officers negligent in levying of the taxes,
 to be ten shillings to be employed as the taxes,
 1 *Iac. c. 31.*

Watchmen not to be impeached for hurt-
 ing those infectious persons that being com-
 manded to keep in, will in offering to come
 forth resist the watchmen, 1 *Iac. c. 31.*

Any infectious person commanded to keep
 in, goeth abroad and keepeth company, ha-
 ving an infectious sore uncured, it is felony
 without corruption of blood or forfeiture of
 goods; if without sore, to be punished as a
 vagabond by 39 *El.* and bound to his good
 behaviour for a year, 1 *Iac. c. 31.*

Officers of a corporation and Justice of the
 Peace in the county, may respectively ap-
 point, swear, and direct searchers, watchers,
 and buriers of infected persons and places,
 1 *Iac. c. 31. Lam. 197.*

One Justice of Peace may command per-
 sons dwelling in infected houses to keep in;
 and, if they go abroad, violently enforce
 them, 1 *Iac. c. 31. Lam. 197. Cro. 122. b. nu.*
39. Dal. 90.

Plaints in Court.

One Justice of Peace may upon complaint
 examine the Sheriff or Under Sheriff and

Plaintiff concerning the taking and entring of plaints in their County-Court, and books against the statute, or any Bailiff of the Hundred for not warning the defendant in such plaint according to his precept from the Sheriff or Under-Sheriff; and if he thereby find them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination; and these examinations the Justice must certifie into the Exchequer within a quarter of a year, on pain of forfeiture of 40 shill. for every default, 11 H. 7. 15. Lam. 261. Dal. 137.

Sheriff entring plaints in any mans name that is not present in Court, nor hath any sufficient attorney or deputy, loseth 40 shill. Lam. 431.

So if he enter more plaints then the plaintiff supposeth he hath cause of action for, 12 H. 7. c. 15. Lam. 431.

Pond and Pond-heads, *vide* Fish.

Poisoning, *vide* Murder.

Pope.

To extol the power of the Pope by writing, cyphering, printing, preaching, or any speech open deed or act advisedly holden or stood with, to extol or defend the power of the Bishop of Rome or of his See heretofore claimed and usurped within this Realm, or to abet, procure, counsel aid, or comfort such, is treason, for the second offence; for the first offence, *Præmunire*, Dal. 231. Lam. 411. El. c. 1.

Presentment

Presentment at the Quarter Sessions for ex-
 olling the power of the Pope of Rome, must
 be certified by the Justices of Peace before
 whom it was taken into the Kings Bench;
 within 40 daies after, if the term open; if
 not, then the first day of the next term, or e-
 very Justice lose 100 pound, 5 *El. c. 1.*

Popish books.

Printer, buyer, seller, or bringer from be-
 yond the sea of any Popish primer, Lady-
 alters, &c. in any language, or other super-
 stitious books in English, loseth 40 shill. a
 book, whereof one part to the King, another
 to the informer, a third to the poor of the pa-
 rish where the book shall be found, 3 *11. c. 5.*

Two Justices of the Peace may search the
 house or lodging of a popish Recusant, or
 whose wife is such, for popish books and re-
 liques, and finding any unmeet for them to
 use, must deface and burn them, or being of
 value deface them and restore them to the
 owner, 3 *1ac. c. 5.*

Poor people.

Traveller with wife and children not being
 rogue, dieth or runneth away, the Town
 where that happeneth is not bound to keep
 them, where they die, nor send them away,
 but only in charity, except they become
 wandring rogues, *Lam. 208. Resol. 7.*

Parents able to work are to finde their chil-
 dren by their labour, and not the Parish, *Re-
 sol. 8.*

None is to be removed out of the Town
 where he dwelleth, or sent to the place of
 birth

birth or last habitation, but a vagrant, nor found by the Town except he be impotent, *Resol. 9.*

Persons destitute of houses by expiration of term, or servants out of service, must provide houses for themselves and services, *Resol. 9. Dal. 99.*

Able bodies, yet idle refusing to work, and no wanderers, are not to be sent to the place of birth or last habitation, but to the house of correction, *Resol. 10.* by such Justice of Peace as may appoint overseers for the poor, 43 *Eliz. c. 2. Lam. 209, & 295. Dal. 99.*

Able bodies, yet idle and refusing to work having any lawful means to live by, are not to be sent to the house of correction, *Resol. 10. Lam. ibid. Dal. 97.*

It is fineable to remove or put any out of the parish, who are not to be put out, and such may be sent back, *Resol. 11. Dal. 98.*

None may take relief at any mans door in the parish, but by the appointment of the overseers nor begge in the high-waies in their parish, *Resol. 15.*

Parsons, vicars, farmers, or owners of impropriations, cole-mines, or saleable woods are to be charged with the relief of the poor, *Resol. 18, 19.*

Bishop and his Chancellour and three Justices of Peace have power to examine how money for the relief of the poor appointed by the statute is bestowed, and to call to account the detainers thereof, 14 *Eliz. c. 5. 39 Eliz. c. 18. Lam. 366.*

Justice of Peace proved before the Judge of Assize by two witnesses to be in default about

about the execution of the statute for the poor loseth 5 li. 14 *El. c. 5. Lam. 372.*

Parents at the *Q. Sessions* appointed to keep their children, or children their parents, and have not relieved them at their own charges lose 20 shill. a moneth, *Lam. 445. 39 El. cap. 3, 4.*

In disability of the parish or hundred to relieve the poor, the greater part of the Justices at the *Qu. Sessions* may rate any other parish or hundred thereto, 39 *El. c. 3. & 43. El. c. 2. Lam. 611.*

Beggars children at the *Qu. Sessions* may be bound to serve any subject in an honest calling, 14 *El. c. 5. & 18. El. c. 3. Lam. 614.*

Performance, or not performance of so much of the statute of 14 *El. c. 5.* for the poor as is not altered by 39 *El. c. 3.* or 43 *El. c. 2. 1 Jac. c. 25.* is to be yearly examined at *Easter Sessions*, *Lam. 620.*

Overplus of the stock for maimed souldiers is to be imployed by the greater part of the Justices at the *Q. Sessions* to be such charitable uses as are set down in the statute for the Poor, except by them it be reserved for future pension, 43 *El. c. 3.*

Young children the parents being dead, are to be set on work and relieved by the Town where they dwelled at the death of their parents, and not sent to the place of their birth, *Dal. 96.*

The Justices may compel such as be of ability, to take poor children apprentices, and may binde such masters refusing over to the next goal-delivery: so said Sir Henry Mountague at Cambridge Assizes 1618. and the statute of 43. *El.*

43 *El. c. 2.* seemeth to warrant as much, the words whereof are to this effect :

It shall be lawful for the Churchwardens and Overseers, or the greater part of them, by the assent of two Justices of the Peace to bind any such children to be apprentices where they shall see convenient cause, Dal. 93. or the Churchwardens or Overseers, with the assent of two such Justices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusal to levy it upon the Justice of Peace by warrant by distress and sale of the offenders goods, Dal. 93.

If the Parents without good cause shewed, refuse to suffer their children to be apprentices, the Justices may binde them over to answer their contempt; if the child refuse, send him to the house of correction, *quousque, &c. Dal. 93.*

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice, *Dal. 96.*

Two Justices of Peace, one being of the Quorum, may send to the house of correction or gaol such as imploy not themselves in work being appointed, 43 *El. c. 2.*

Possession actual and in Law.

If after the death of *A.* another man abetteth or entreth into his house forcibly before the heir of *A.* hath gotten any actual possession indeed, the heir of *A.* shall have no restitution, because he had a possession in law only, *Lam. 15 3. Dal. 217.*

Power of the County. 217

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none, *Lam.* 315. *Dal.* 114. *Cro.* 62. *nu.* 22. & 64. *b. nu.* 49.

Power of the county is raised without knowledge or information of a riot; if when they come they finde one, it is lawful, and they may proceed to punish it, *Lam.* 316. *Dal.* 114. *Cro.* 62. *b. nu.* 23.

Power of the county in suppressing a riot, *de Riot.*

The Justices of Peace, Sheriff, or Under-sheriff, in levying power of the County, may have the aid of all the Knights, and other temporal men under that degree that are above the age of 15. and able to travel, upon pain of imprisonment, fine, and ransome to the King, *Dal.* 113. *Lam.* 315. *Cro.* 157. *b.* But it is referred to the discretion of the Justices how many or how few they will have, and in what sort they shall be armed, *Dal.* 113. *Lam.* 315. *Cro.* 64. *b. nu.* 49.

One Justice of Peace may take power of the county, to suppress rioters, and need not tarry till his fellows come, *Cro.* 157. *b.* *Dal.* 110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray, *Cro.* 158. *a.* *Lam.* 134.

Sheriff upon a writ of execution returned that he could not execute it for resistance, and was amerced 20 marks because he took not the power of the county, *Cro.* 158. *a.* *Lam.* 157. *Dal.* 216.

Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon time, is to be bound to his good behaviour, have three months imprisonment, *Lam. 411. 1 M. c. 3.*

If the disturber of any Preacher be arrested and brought before any Justice of Peace, upon due accusation & examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within six daies after another Justice joyning in examination, the upon confession of the party, or conviction of two witnesses, may commit him to prison for three months, *Lam. 195, 333. 1 Mar. c. 3.*

Quære if all the statute of 1 *Mar. 3.* be repealed by the general words at the latter end of the statute 1 *Eliz. c. 2. Dalt. 103, 104.* Sir *Nich. Hides* opinion cited that it was wholly repealed.

Precept, *vide* Warrant.

Præmunire.

Refusal to take the oath of the Kings supremacy, the first offence is *præmunire*, the second treason, 5 *El. c. 1. Lam. 411. 23 El. c. 1.*

To aid, comfort, or maintain one that hath committed treason in using of bulls, is *præmunire*, 23 *El. c. 1. Lam. 413. Vide* Treason.

To hold, set forth, or defend the power or ritual of any forein Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching

preaching, expresse deed or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *præmunire*, the second treason, 1 *El. c. 1.* & 5 *El. c. 1.* enquirable by words of 23 *El. c. 1.* & *Lam. 411.*

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authority of the See of Rome, incurreth *præmunire*, 13 *El. c. 2.* & 23 *El. c. 1.* *Lam. 413.*

To bring from the Bishop or See of Rome, or any claiming authority from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or wear in any wise, or receive them to such intent, and not to apprehend the offender, or within three daies disclose him to the Ordinary or other Justice of Peace, or within one day deliver the things received to a Justice of Peace, 13 *El. c. 2.* & 23 *El. c. 1.* *Lam. 414.*

The forfeiture in cases of *Præmunire* upon the Statute of 16 *R. 2.* is to forfeit his lands and tenements in fee forever, his lands in tail for his life, and all his goods and chattels, and to have a perpetual imprisonment, and to be out of the Kings protection, *Cro. 14. a.* *Dal. 234, 235.* But *quære* if he be attainted upon 27 of *E. 3. 1.* if he appear at the day of the *præmunire* returned, *Dal. ibid. Br. Præmunire 6. Co. 11. 34. Inst. 129. & 130.* at large.

A man may not kill him which is attainted in the *præmunire* by 5 *El. c. 1.* but before he might

might, for they were out of the Kings protection, *Cro. 15. a. b.*

One lawfully imprisoned untill the next Sessions, for refusing the oath of Allegiance, and there again refusing it, incurreth a *præmunire*, except married women, who are only to be imprisoned without bail, 3 *Fac. c. 4.* & 7 *Fac. cap. 6.*

Just. of P. not disclosing nor certifying within 14 daies the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the Kings Council, 13 *El. c. 2.* is *præmunire*, *Lam. 195, 372.*

Broakers of bargains contrary to the statute of 37 *H. 8. c. 9.* provided against usury, shall be punished as Councillors, Attorneys or Advocates in case of *præmunire*, 39 *El. c. 18. 13 El. cap. 8.*

Delivering or sending any relief to a Jesuite, Priest, or other remaining in any Colledge of Jesuites, incurreth *præmunire*, 27 *El. c. 2.*

Presentment.

Presentment is a declaration of the Jurors or Officers without any bill offered before, *Lam. 485.*

It differeth from an indictment, which is the verdict of the Jurors that be charged to enquire of that offence which is offered, *Lam. 486.*

What shall be a good Presentment.

Presentment at a Sessions where the style is in the name of three, and the presentment taken by two, *Lam. 383.*

Presentment

Presentment where some of the Jurors be allied or of blood to him that procureth the indictment; but it is no discretion in the Justices to suffer such to be impanelled, *Lam.* 98.

Presentment of a Jury of an hundred, of an offence done in another hundred, *Lam.* 399.

Constable presents a fault at the Sessions which belongeth to his office, which is allowed by the Enquest, it is good: otherwise it shall not serve for an Endowment, *cro.* 25.b.

Constables, Churchwardens, Aleconners, Sides-men, may present all offences contrary to 4 *Fac.c.5.*

Presentment where all were not sworn, if the Record be that all were sworn, *Lam.* 99.

Where the declaration of the Officers of the Sessions shall have the force of a Presentment.

A Justice of Peace upon his own knowledge of offences against the statute of 2 & 3 *R.M.c.8. & 5 El.c.13.* of high-waies, *Dal.* 67. *cro.* 125 b. 195. *a. nu. 5.*

Searchers appointed to examine the true making of tile, 17 *Ed.4 c.1. Lam.* 508.

Constable for sundry points in the statute of Winchester, 13 *Ed.1. Lam. ibid.*

Amendment of a presentment, *vide Venire facias.*

Priests, *vide* Jesuites.

Principal and Accessary, *vide* Accessary.

Prison.

‘Imprisonment, is the putting of a person
 ‘from his liberty unto the custody of the
 ‘Law, to answer to that which shall be ob-
 ‘jected, *Lamb. 228. Dal. 343.*

‘A man is in prison so long as he is in
 ‘of his Gaoler, though he break away, *Dal.*
 ‘276.

‘No man shall commit another to prison,
 ‘except he be a Judge of Record, *Dal. 344.*

‘Constable imprisoning a suspect for felony,
 ‘may lock the stocks, and put irons on him,
 ‘and in conveying him to the Justice or gaol,
 ‘may pinion him, or otherwise make him sure,
 ‘that he cannot escape, *Dal. 350.*

One committed to prison for refusing to
 find sureties for the peace, shall remain there
 till he freely offer and find them, *Lam. 93.*
Dal. 171.

One committed for denying to find sureties
 for the peace, may not be delivered upon the
 death or release of the party, without help of
 the Sessions or gaol-delivery, *Lam. 93. Quare.*

One was imprisoned till he made fine for
 that he stood by whilest one was slain, because
 he did not his best to attach the murderer,
Lam. 132.

The Sheriff or gaoler may imprison in his
 house, or in the common gaol at pleasure, *Dal.*
 347. *Quare Cro 169. b. Lam. 133.*

Constable cannot imprison in his house but
 in the stocks, and that but until he may pro-
 vide convenient aid to convey him to the Ju-
 stice of Peace or to the Gaol, *Dal. 348. Lam.*
 133.

Just. of Peace cannot commit felons to pri-
 sons which be not common gaols, nor make
 a gaol

gaol of their own houses, *Lam.* 133.5 *H.* 4. c. 1.
o. Cook 9. 119. b. 23 *H.* 8. c. 2. *Dal.* 347.

Justice of Peace may commit to the stocks
 some offenders against certain penal statutes,
Dal. 347.

Breach of prison is the escape of a Felon,
 though not indicted, out of the gaol, stocks,
 or possession of any keeper, *Lamb.* 229. *Dal.*
 275.

One imprisoned upon a *capias pro fine* is to
 be delivered upon payment thereof, *Lam.* 574.
 or upon pledges by Recognizance for pay-
 ment thereof, *Lamb. ibid.*

Prisoners.

Every one who is under arrest for felony,
 is a prisoner as well without prison, as in the
 stocks, in the high-way, or in the possession
 of him that arrested or hath the keeping of
 him, *Dal.* 275, 343.

To break prison is felony, being commit-
 ted for felony, *Lam.* 228, 424.

'It is no matter whose prison is broken,
 whether the Kings or other persons, whe-
 ther it be common or private gaol, or the
 Constables house, or others house who hath
 the custody of him for felony, *Dalt.* 275.
Stam. 31.

Rescous to help a prisoner committed for
 felony to get away, is felony, *Lam.* 229, 424.

If an officer or other whatsoever by his wil-
 full default suffer a prisoner to escape, it is fe-
 lony, *Lam.* 229, 424.

Prison-breach is to escape out of the stocks,
 or out of any mans possession, *Lam.* 229.

'A Constable voluntarily suffereth a thief
 to

‘to drown himself; it is felony in the Court
‘stable, *Dal.* 276. but if the thief kill, hang,
‘or drown himself, it is a negligent escape,
Dal. ibid.

Prisoner of sufficient ability shall bear his own charges, and of them that shall be appointed to guard him to the gaol, and he refusing, the Constable of the parish where he dwelleth, by warrant from the Justice that committed him, may levy the same by distress and sale of his goods after apprizement by four of the parish, the overplus to be delivered to the owner, 3 *Fac.c.10.*

Prisoner not of ability, and those that guard him, to have their charges from the place of apprehension to the gaol born by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, and two or three of the inhabitants, and allowed by the Justice of Peace, 3 *Fac.c.10.*

Any lawfully taxed for the charge of bringing a prisoner to the gaol, and refusing to pay it to the Constable or other officer of the parish, by warrant from the Justice of P. that committed him, may levy the same by distress, and after apprizement by four of the parish) sale of the goods, giving the owner the overplus, 3 *Fac.c.10.*

Defendant in any action of a distress taken by force of the statute of 3 *Fac.c.10.* may plead not guilty, and give the special matter in evidence, and upon recovery or nonsuit shall have treble damages, 3 *Inc.c.10.*

Prisoners discharged by Justices of Peace who take the indictment to be void, may be stayed.

ayed if they change their opinion before judgement, *Lam.* 540.

A man outlawed for felony is imprisoned among traitors, and breaking prison setteth them loose, this is rescous of a traitor, and treason, *Cro.* 35. a. nu. 5, 6.

Privy Sessions, *vide* Sessions.

Process.

Process hath the name because it proceedeth or goeth out upon former matter either original or judicial, *Lam.* 519.

Suggestions and informations, whether by word or writing, are but to stir up the Justices to commend the cause to the Inquest, and not to award process upon them, *Lam.* 509. unless it be in certain causes where it is especially given them by statute, *ibid.*

Authority to make process upon endictments is given to the Justices by words of their commission, or by implication where the power of hearing and determining is given by their commission, *Lam.* 520.

Process ought alwaies to be in name of the King with *Non omittas*, &c. with *Teste* of any two Justices under their hands sitting in Court, *Lam.* 520. *Dal.* 412.

No process, plea, or suit, is to be discontinued by making a new commission of the Peace, 11. H. 6. c. 6. & 1 Ed. 6. c. 7. *Lam.* 520. See the end of 1 E. 6. c. 7.

Process upon all endictments of trespass against the Peace or upon special statute is *Venire facias*; and if he be thereupon returned sufficient, then a *Distringas* *in fine*; if he be returned

returned *Nihil habet*, then *Capias alias*, *pluries*, *Exigent*. Lamb. 522, 523. Dal. 412.

Process upon the stat. of unlawful games, liveries, maintenance, archery, &c. *Veneri facias*, *Capias*, *Exigent*, 33 H.8.c.10. *Quare* if it be not repealed by 37 H.8.c.7. Lam. 523.

Process upon the statute of Victuals, attachments, *Capias*, *Exigent*, Lam. 523, 524.

Process upon depraving the Sacrament in two, *Capias*, *Exigent*, *Capias*, *ut legatum*, and may be sent by any three Justices into any shire, one being of the Quorum, Lam. 524.

Justice of Peace may award process into a foreign county against an accountant for money levied for making a gaol, 25 H.8.c.5. 5 El.c.24. Lam. 525.

Justices of Peace where the servant departed, may award a *Capias* to the Sheriff of the shire whereinto he departed, returnable before themselves. 5 El.c.4. So where a decayed bridge is in one county, and the party or land chargeable do lie in another county, Lam. 525. 22 H.8.c.5.

One indicted of treason or trespass in one county, is imprisoned in another; the Justices may award *Habeas Corpus* to remove him before themselves, Lam. 526.

Process upon indictment of felony may be sent into any foreign county, 5 E.3.c.11. Lam. 527.

Process upon indictment of felony is two *Capias* and an *Exigent*, 23 E.3.c.14. Lam. 528.

Indictment of treason, felony, or trespass in one county nameth the indicted to be of another; the first process shall goe into the county

county where he is indicted, the second to the county where he is named, to be returnable three months after : and if he be not to be found there, then that Sheriff to make proclamation at two County Courts before the return, that he appear before the Justices of the County where the indictment is at the day in the *Capias* ; and if he appear not, an *Exigent* to be awarded, 8 H.6.c.10. *Lamb.* 525, 526.

The two Justices of the Peace which have the over-sight of the Sheriffs books and of the amerciaments, upon suggestion may make process as in an action of trespass against the offenders of that stat. to answer before them, 1 H.7.c.15. *Lam.* 360.

No process is to be awarded by the Justices after outlawry, but they are to certify the outlawry into the Kings Bench, *Lam.* 521, 522.

Process upon informations must be such as the statute whereupon they are grounded doth appoint, *Lam.* 528.

The Sheriff or his minister that hath arrested, or caused any fine, rancome, or amerciamment to be levied by reason of indictment or presentment at the Sheriffs turn or law-day without process from the Justices, loseth 40 pound, 1 E.4.c.2. *Lam.* 431, 521.

Informations made in the Sessions that an alehouse keeper hath done any thing whereby he hath forfeited his recogniz. the Justices of P. may award process against him, to shew cause why he should not forfeit his recognizance, *Lam.* 524. but *quære* what process, *Lam.* 524.

Process

Process cannot be awarded by the Justice of Peace upon any forfeited recognizance except ale-houses, but they must certify them to the higher Courts, *Lam. ibid.*

Proclamation.

Justices of Peace cannot acquit felons by Proclamation, or without sufficient acquittal; and if they cannot indict them, they must remain till the gaol-delivery, *Lam. 549, 550.*

The form of Proclamations to remove force upon a writ upon the statute of *Norhampton*, *vide Lam. 168, 169. Dal. 61, 62.*

Constable, if any affray be dangerous, must make proclamation, *Lam. 132. Dal. 33. maketh a quare.*

One Justice of Peace may make a proclamation in the Kings name to stay a riot, *Lam. 183. Quare* for the statutes, 1 *M. 12. 1 Eliz. 19.* are expired.

Justices of Peace at every Sessions use to make proclamation, that if any will inform for the King, he shall be heard, *Lam. 520.*

Proclamation annexed to the statute of 4 *H. 7. c. 12.* is to be read every *Q. Sessions*, or every Justice present loseth 20 shill. 4 *H. 7. 12. Lam. 533. Quare* if of force now.

Promoters, *vide* Informers.

Prophefying.

Prophefier with intent to make rebellion, dissention, loss of life, or other disturbance in the Realm, being convicted thereof before the Justices of Peace shall be imprisoned one year without bail for the first offence, and forfeit

also ten pound; for the second offence imprisoned all his life, and lose all his goods and chattels real and personal, and to be impeached within six months, 5 *El.c.15. Lam. 415, 416.*

Purveyors.

If purveyors, caterers, or servants of any man but the King, take any thing without the owners will, or as they can agree and make present payment it is felony, *Lam. 231. Dal. 282. Cro. 48.a.*

Purveyor shall not take cart or other provision of any Prelate or Clerk.

Purveyor, his deputy undertaker, or servant, maketh purveyance without warrant of any thing above 12 pence, without consent of the owner, it is felony, 2 & 3 *P. & M. 6. Lam. 422. Dal. 286. Cro. 48.a.*

Purveyor taking any carriage in other manner then is comprised in his commission, is felony, 36 *Ed. 3. cap. 2. Lam. 423. Dal. 286.*

Or any purveyance without commission under the great Seal, *Dal. ibid. Cro. 48.b.* it is felony.

Or make purveyance of goods above 12 pence, without testimony and apprizement of the Constable and four honest men of the town, and without delivering tales or Indentures under his seal testifying his purveyance, it is felony, *Lam. 423. Dal. 286.*

Quere if it be but of the value of 40 shill. or under. *Quere* by whom the apprizement shall be made, and between whom the Indentures shall be made, *Dal. 287.*

To take more victuals or carriages for the Kings house, then he shall deliver to the same house, is felony, *Dal.* 287.

To take sheep in their wools betwixt Easter and Midsummer at small prices, and carry them to his own house to shear them *Lam.* 423. *Dal.* 286. 23 *E.* 3. cap. 15. is felony.

Quere if the felony of purveyours by 36. 3. c. 6. be not altered by 23 *H.* 6. 1 & 2.

Purveyour taking any thing of the value 40 shillings or under, without present payment, loseth double the value of the thing taken; and the Constable upon request made not aiding him to resist the purveyours taking, loseth double damages.

And any of the Kings officers procuring any to be arrested or vexed for such resistance, loseth 20 pound, 20 *H.* 6. c. 8. & 21 *H.* 6. c. 2. *Lam.* 439.

Purveyour taking any thing of any mans spare him, is to be imprisoned two years, pay treble damages, and ranfome, *Lam.* 439.

Purveyour taking corn by other measure then the stricken bushel, or by any more then eight such bushels to the quarter, and that hath taken carriages therefore without making ready payment, is to be imprisoned one year, and pay five pound unto the King and 5 pound unto the party, 25 *E.* 3. c. 1. & 1 *H.* 5. c. 10. *Lam.* 439.

Purveyor of timber or his deputy, causing any timber to be felled fit for barking, but only in barking time, except trees for building or repairing the Kings ships or houses, having taken any profit by the lops, tops,

barks of any trees, or having taken from the owner any more of any tree then onely the timber, loseth 40 shill. for every tree, *Lam.* 438, 439. 1 *Fac.* 22.

Dockets of Purveyours ought to be delivered over to the Justices of Peace at the next General Sessions, and by the Justices to be certified to the Treasurer of the Kings household, *3 P. & M. c. 6. Lam.* 614.

Purveyour taking any provision for the Kings house by force of his commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, if not a felon, *Dal.* 287.

Undertakers, deputies, servants, and all other which under colour of the Kings Commission, to the Kings Purveyors, do take any victuals against the statute, are liable to the pains therein mentioned against purveyours, *3 P. & M. c. 6. Cro.* 48. b.

Justices of Peace are to certify to the Treasurer of the Kings household the dockets of purveyours (brought to their Sessions by Constable) that the serving of such Commissions and the true answering of purveyance may be better examined thereby, *Lam.* 590. *3 P. & M. c. 6.*

Upon malice prepensed to put out any ones eyes, is felony, *5 H. 4. c. 5. Cro.* 49. a. *Lam.* 256, 420. *Dal.* 280.

Quarter-Sessions, *vide* Sessions.

Rape, or Ravishment.

Deflowring of a maid under ten years of age, with, or without consent, is felony without Clergy, 18 *El. c. 6. Lam. 256, 411. 290. Cro. 47. b.*

Ravishing of a woman against her will, without consent either before or after the fact, or being with force, though after she do consent, is felony without Clergy, 18 *El. c. 6. Lam. 256, 241. Cro. 47. b. 290.*

To be present and aiding the ravisher, is felony without Clergy, *Lam. 258, Cro. 47. b. Stam. 24. Dal.*

No rape where the party deflowred cometh with child, *Lam. 257. Dal. 289. Cro. 47. b. Stam. 24.*

Deflowering of one kept as the deflowered concubine, is a good plea upon an appeal; but it is no rape; otherwise of another man's concubine, *Lam. 257, Cro. 47. b. Stam. 24. 290.*

Force without carnal knowledge is no rape, *Lam. 257, 258.*

See the statute *de Officio Coronatorum* 4 *E. 1.* Complaint must be made within three daies, but otherwise in an appeal.

A woman that is ravished ought presently to levy hue and cry, and to complain thereof presently to some credible persons; *Dal. 289. Cro. 100. a. Stam. 22.* indictment of rape, no time to be observed.

To ravish a woman who consenteth to it out of fear of death, &c. is ravishment; for com-

right to be voluntary and free, *Dal.* 290.
48. a.

Consenting after rape doth not hinder
that the husband, and if she have no
husband, the father or next of blood may
pursue the ravisher, to have him convicted,
X. 173.

Rates, *vide* Taxation.

Rebellious assemblies.

The statutes 1 M 12. and 1 Eliz. are dis-
tinguished, *Dal.* 224.

Recognizance.

Recognizance is a bond of Record testify-
ing the Recognizer to owe a certain sum of
money to some other, and the acknowledge-
ment of the same is to remain of record, and
it can take it but onely a Judge or Officer
of Record, *Dal.* 334.

Every Recognizance taken by a Justice of
Peace, must be made by these words, *Domino*
mihi, upon pain of imprisonment of any per-
son that shall take it otherwise, 33 H. 8. c.
10. Cra. 196. b. nu. 11. Lam. 164. *Dal.* 175,

179.
Sureties in Recognizances ought to be Sub-
jects, and they must be two besides the
party himself, Lam. 101. *Dal.* 175.

It is in the discretion of a Justice of Peace,
whether he take a recognizance *ex officio*, to appoint
or allow the number of the sureties, their suffi-
ciency in goods and lands, the sum of money,
and how long he shall be bound, *Dal.* 174.

Lam. 109.

If a Justice of Peace be deceived in the ability of the sureties, he may compel the party to put in another, *Lam. 100. Dal. 176.*

Recognizance of the Peace, without expressing in the condition that it was for keeping of the peace, seemeth void, *Lam. 103. Dal. 175.*

So it is if a recognizance be, that a recognizer shall not maim or beat *A.* without expressing keeping the peace, *Lam. 103. Dal. 175.*

Recognizance comprehending no time of appearance, but generally to keep the peace is good, *Lam. 103. Dal. 176.*

Recognizance for the peace upon a *summons*, is not of necessity to be returned *certiorari*, *Lam. 109. Dal. 177.*

Recognizance taken to keep the peace against one especially, *quare* if it be good, *Lam. 104. Dal. 176.*

* Recognizance taken to be levied only of the goods or only of the lands of the recognizer, seemeth to be good enough, *Lam. 104. Dal. 167.*

* Wife or infant under the age of discretion are to be bound to the peace by their sureties only, *Lam. 101.*

Recognizance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*, *Lam. 109. Dal. 178.*

Recognizance not forfeited is discharged by the death of the King, of the recognizer or the party suing for it, if it were against him alone, *Lam. 113. Dal. 141.*

The sureties dying, the recognizance is good against the executors, *Lam. 113. Dal. 141.*

Recognizance

Recognizances taken are to be certified notwithstanding the death of the King, *Lam.* 103. of the recognizer, or of the party at whose it was granted, *Lam.* 113.

The Recognizance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison, *Lam.* 114. *Dal.* 13.

Recognizance of the peace brought into the *Custos Rotulorum*, and not pursued by the party, may be called upon for the King by the Clark of the Peace, *ibid.*

Justices of the Peace cannot award process on a forfeited Recognizance, but it must be certified into the higher Court, except recognizance for alehouses, *Lam.* 589. *Dal.* 7. *Cro.* 167.3. & 196. b. nu. 9. and the cause of the forfeiture, *Dal.* 177.

Recognizances or examinations taken concerning suspects or felons, are to be certified at the next general goal-delivery, 2 & 3 P. M. c. 10. *Lam.* 212.

Recognizances taken by a Justice of Peace *officio*, are to be brought into the *Custos Rotulorum* at the next general Sessions, *Lam.* 9. *Dal.* 177. *Cro.* 139. a. but no pain by the statute of 3 Hen. 7. 1. if he do not, *Br.* 11.

None but the King can pardon a Recognizance once forfeited, *Lam.* 111. *Cro.* 140. b. *Dal.* 181.

Recognizance taken where the Justice hath no authority, is void. And taken by authority, if the Justice insert other matter it is void, *Cro.* 196. b. nu. 7.

A Recognizance taken by a Justice of Peace.

- Peace is a matter of Record so soon as it is taken and acknowledged, although it be not made up, but entred into his book, although it be not entred, *Dal. 336. Stat. 77.b. E. Brook Record. 58.*

Reconciliation, *vide* Treason.

Records.

Records be nothing else but memorials or monuments of things done before Judges that have credit in that behalf, *Lam. 63.*

If a Record say any thing, no man shall be received to aver or speak against it, *Lam. 63.*

The Judges may correct or amend any Record in the term wherein the Record is to be made, but after they have no power at all over them, *Lam. 64.*

The Record or Testimony of a Justice of Peace is in some cases of greater force than an indictment of a Jury, and against it the party shall not be admitted to traverse, *Lam. 65.*

Embezelling of a record is felony, but not to be dealt withal by Justices of Peace, *Lam. 231, 549.*

Precepts for surety of the Peace, special Records for conviction of forcible entries made out of the Sessions, are not records of Sessions, *Lam. 389.*

Records of causes determinable at the Sessions taken by the Justices of Assize at their Goal-delivery as Justices of Peace, are to be left with the Clark of the Peace to be brought to the next Sessions of the Peace, *Lam. 391.*

One pleadeth a record before other Justices by way of justification, the Justices ought to give him day to bring in the record, *Lam.*

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezzeling, wilful rasing of an indictment, maliciously enrolling that for an indictment which was not found, or changing an indictment of trespass into an indictment of felony, loseth his office, and shall be fined and imprisoned according to his offence, *Lam.*

To raise a record is felony; yet if a Judge do embezel or raise a record, it is but misprision in a Judge, *Dal.* 283. *Br. Canon.* 174. & *Treason* 31.

Embezzeling of any record, writ, return, panel, process, or warrant of Attorney in Chancery, Kings Bench, Exchequer, Common pleas, or Treasury, is felony in the parties, their counsellors, procurers, or abettors, *Dal.* *ibid.*

But it seemeth that Justices of Peace have to do with these felonies, *Lam.* 519. *Cro.* 68. *H. 6. c. 12.* *Dal.* 283. for that these records do not remain with the Justices of Peace, *Cro.* *ibid.*

Recusants.

Wilfully absenting themselves from Church moneths, contrary to 1 *El.* c. 2. and convicted being of 16 years of age, are to be bound to the good behaviour, upon certificate of the Justice of Peace to the Kings Bench, 1 *El.* besides other penalties, 23 *El.* *Dal.* 104.

Every Justice of Peace may give notice to any person to forbear to receive or keep such as shall obstinately refuse to come to the Church by the space of a moneth together, 35. *Elix. cap. 1.*

Heir of a Recusant being a Recusant at his Ancestours death, conforming himselfe, and taking the oath of supremacy made 1. *Elix.* before the Archbishop or Bishop of the Diocess, shall be free from penalties for the recusancy of his ancestour, 1. *Jac. c. 4.*

Heir of a Recusant being under 16 years at the death of his ancestour, at or after 16 years becomes a Recusant, he is not to be freed of his ancestours penalties for recusancy, till conformity as aforesaid, 1. *Jac. cap. 4.*

Two parts of Popish Recusants lands being seised for the payment of 20 li. a moneth, the third is not to be charged with it, but to descend to his heir, and the two parts to remain in the Kings hands till he be satisfied thereof both for the ancestour and heir, 1. *Jac. cap. 4.*

Any sending his children beyond the sea out of the Kings dominions to any religious house, to be instructed or strengthened in Popery, loseth 100 pounds, and the person going, or being there, and not returning within one year, and submitting, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions, till conformity, 1. *Jac. cap. 4.*

Estates in trust for benefit of any sent beyond the sea to any religious house to be instructed in Popery, are void, 1. *Jac. c. 4.*

Justice

Justice of Peace not certifying at the next Q. Sessions the oaths taken of any reconciled to the See of Rome, upon his submission, returning into the Realm, doth forfeit 40 pounds, 3 *Jac. c. 5. Lam. 633.*

Forfeitures upon the statute of 1 *Jac. c. 4.* against Popish Recusants, half to the King, and half to the suer in any the Courts of Record at Westminster by action of debt, &c. 1 *Jac. c. 4.*

Popish Recusant conforming himself in coming to Church according to the law, and after convicted for not receiving the Sacrament once every year, loseth for the first year 20 pound, for the second year 40 pound, for the third year 60 pound: And if after conformity in receiving the Sacrament, he offend therein, he loseth, for every offence 60 pound, one moiety to the King, the other to the informer, to be recovered in any of the Kings Courts at Westminster or before the Judges of Assize, or Justices of the Peace at their Quarter Sessions by action of debt, &c. 1 *Jac. c. 4. Lam. 418.*

Constables and Churchwardens, or, for want of them, the high Constable once every year, are to present the monethly absence of Popish Recusants from Church, with the names of the servants and children above nine years old, or lose 20 shillings for every absence, & upon their conviction to have 40 shill. out of their goods, 3 *Jac. c. 4. Lam. 616.*

Clark of the Peace is to record the Presentment of Constables and Church wardens for monethly absence from Church, without fee, & loseth 40 shill. 3 *Jac. c. 4.*

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and determined by the Justices of Peace at their Quarter Sessions, as Justices of Assize might before, 3 *Iac. c. 4. Lam. 617.*

Upon an indictment for not coming to Church, or not receiving the Sacrament, Justices of the Peace at their Qu. Sessions may by proclamation command the indicted to render his body to the Sheriff before the next Qu. Sessions or Assizes, and in default of appearance, then the same to be a sufficient conviction, 3 *Iac. c. 4. Lam. 616.*

Popish Recusant convicted of not coming to Church according to law, shall in Easter or Michaelmas term next after the conviction, pay into his Majesties receipt after the rate of 20 pound a month, and so to continue without any other indictment, till he conform himself; and in default of payment, all his goods and two parts of his lands to be seised till conformity, leaving the mansion-house to the third part, 3 *Iac. c. 4.*

The King seising two parts may not let it to any Recusant, nor for their use, and the lessee must give security to the King not to commit waste, 3 *Iac. c. 4.*

Indictments against Popish Recusants are not to be avoided for want of form until conformity, 3 *Iac. cap. 4.*

Justices of Peace may hear and determine all offences against the statute 3 *Iac. c. 4.* except treason, 3 *Iac. c. 4. Lam. 617.*

Attainder of felony upon the statute of 3 *Iac. c. 4.* of Popish Recusants, barreth not dower, nor corrupteth blood, 3 *Iac. c. 4.*

Any pursued for doing any thing warranted by the statute of 3 Jac. c. 4. may plead the general issue, and give the special matter in evidence, 3 Jac. c. 4.

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 Jac. c. 4. for not receiving the Sacrament, nor the wife after his death.

Popish Recusant convicted, coming to the Court where the King or his heir apparent, without the Kings command, or warrant in writing from the Council, loseth 100 li. 3 Jac. c. 5. the one half to the prosecutor.

Recusants convicted or other forbearing for three months to hear divine service, now dwelling in London or within ten miles (except tradesmen having no other dwelling) are to depart within forty daies, and if they come to dwell there within three months, then to depart within ten daies after conviction, and to deliver their names to the Maior of London or the next Justice of the County, or lose 100 pound, 3 Jac. c. 5. the moiety to the prosecutor.

Every one not repairing every Sunday to some usual place appointed for Common-prayer, there to hear divine service, upon conviction within one month after default, upon confession, or oath of one witness, one Justice of Peace may call the offender before him, and if he cannot satisfy the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levy 12 pence for every default by distress and sale of the offenders goods; and in default of distress the Justice may commit him till he pay.

pay it, which is to be employed for the poor,
3 Jac. c. 4. Dal. 105. Coke 11. 61. b.

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retain in their service any absenting themselves a month together from Church without reasonable excuse, lose ten pound a month, *3 Jac. c. 4.*

The King or five Lords of the Privy Council may by writing under the hands of the Privy Council licence a Popish Recusant confined five miles to travel out of his compass for such time as is contained in the licence, without inserting any cause, *3 Jac. cap. 5.*

Popish Recusant confined to five miles, informing upon oath four Justices of Peace that he hath necessary occasion to travel farther, and that he will make no causes stiales, they with the assent of the Bishop of the Diocess, Lieutenant or his Deputy, under their hands and seals, and specifying in their licence the cause and time of travel, may by licence under their hands and seals give liberty to him to travel forth of his compass, all other licences to be void; and any travelling without such licence, not having taken such oath, shall forfeit as a Recusant convicted by the statute of *35 Eliz. cap. 2. 3 Jac. cap. 5. Dal. 109. Lam. 365.* and any one of the four Justices may minister the oath, *3 Jac. cap. 5. Lam. 296.*

Statute *35 Eliz. 2.* confining Popish Recusants to certain limits is hereby confirmed, and the proviso for licensing them to goe beyond

beyond their limits is hereby repealed, 3 Jac. cap. 5.

Popish Recusants convicted are not to practise the common or civil law, not physick, nor to execute any offices, places, or trades belonging to any of them, nor to be Minister or Officer in any Court, nor to have any place of command, or office in warre, nor any office or charge in any ship, castle or Fortrels of the Kings, on pain of 100 pound, one moiety to the King, the other to him that will sue 3 Jac. cap. 5.

Popish Recusant convicted, or whose wife is a Popish Recusant, during recusancy not to execute any publick office or charge in the Realm, 3 Jac. c. 5.

Married woman being a Recusant convicted, whose husband is not convicted not conforming her selfe according to law, forfeiteth to the King two parts of her dower or joynture, and is disabled to be executrix or administratrix to her Husband, 3 Jac. c. 5.

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being able to sue for or concerning his lands and leases not seised by the King, 3 Jac. cap. 5.

Recusant convicted, married otherwise then by a minister lawfully authorized, and according to the orders of the Church, is disabled to be tenant by courtesie, or in dower, or by joynture, or to have widows estate, or frank-bank, or any part of her husbands goods; and marrying any, by whom he is not intituled to be tenant by the courtesie, loseth 100 pound, one moiety to the King, the other to him that will sue 3 Jac. c. 5.

Child

Child of a Popish Recusant not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth ten pound, whereof one third part to the King, another to the poor of the parish, and the third to him that will sue, 3 *Iac. c. 5.*

Popish Recusants not excommunicated, buried otherwise then according to the orders of the Church, his executors or administrators knowing it or causers of it, lose ten pound, one third part to the King, one third part to the poor of the parish, and one third part to him that will sue for it, 3 *Jac. c. 5.*

Popish Recusant convicted, during his conviction, to be from the ending of that Parliament disabled to grant any advowson, &c. or to present or nominate to any spiritual living, the same to remain to the Chancellor of the Universities of Oxford and Cambridge, according to their several shires limited in that statute, so that they present none having a former benefice with cure, if they do, the same to be void, 3 *Jac. c. 5.*

Penalties upon the statute of 3 *Jac. c. 5.* against Recusants to be recovered in any his Majesties Courts of Record by action of debt, bill, plaint, or information, without essoin, protection, or wager of law, 3 *Iac. cap. 5.*

Marr ed woman under Barones, convicted of not coming to Church, and of not receiving the Communion, who doth not within three months after conform her selfe, to be committed by two Justices of the Peace one being of the *Quorum*, until conformity, unless her husband pay 10 pound a month to

the King, or the third part of his lands, 7 Jac. 1.6.

The penalty of 12 pence, and of 20 l. a month, shall be both of them paid by a Recusant convict, *Dal. 106. Cro. 11. 63. b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who requireth not to the place of his dwelling, or place of his birth, there to notify himselfe to the Minister and Constables according to the statute of 35 Eliz. or afterwards removeth five miles from the same, (if upon apprehension he conform not himselfe within three months) to abjure the Realm, and assigne him his time and haven, 35 El. c. 2. *Dal. 109.*

The form of the Oath.

You shall swear you shall depart this Realm of England, and all other his Majesties dominions, and that you shall not return hither or come again into any of his Majesties dominions without licence of our Sovereign Lord the King or of his heirs. 3. To help you God, Dal. 109. Stam. 119.

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed go to such haven and depart, or after such abjuration returneth without his Majesties special licence, in every such case shall be adjudged a felon, 35 El. c. 2. *Dal. 109. Lam. 419. 1 Jac. c. 25.*

The Justice of P. before whom such abjurations shall be made, must presently cause the same to be entred of Record before them, and certifie it at the next general gaol-delivery in the said county, *ibid.*

The Bishop of the Diocess or any one Just. of

of Peace, or Minister of the parish where such convicted Recusant shall be, may require his submission, *ibid.*

Justices of Peace at their Quarter Sessions may inquire, hear and determine of all Recusants both for not coming to Church, and not receiving the Sacrament according to law, as Justice of Assize and gaol-delivery may do, and at the Sessions (in which such Indictment shall be taken) make proclamation to render their bodies to the Sheriff, and before the next Q. Sessions, at which if the offender make not appearance of Record, it shall be a conviction, 3 *Iac. cap. 4. Lam. 616.*

‘Popish Recusant convicted is disabled to be
‘executor, administrator, or guardian: the
‘guardianship to go to the next of kin to
‘whom the land should not come, being no
‘Recusant; and he to accompt to the heir, as
‘the case shall require, 3 *Iac. cap. 5.*

‘Recusants armour, gun-powder and munition, by warrant of four Justices of the P. at
‘their general Sessions, shall be taken from
‘them, (other then necessary weapons allowed by the said Justices for their defence)
‘and kept at the Recusants costs, where the
‘Justices shall appoint. And the Recusant,
‘refusing to tell what armour he hath, or disturbing the delivery thereof forfeiteth the
‘armour, and is to be imprisoned for three
‘months without bail, 3 *Iac. c. 5. La. 617, 618.*

Regrator.

Regrator is he that buyeth live or dead victuals, tallow, or candles in the market, and telleth the same there, or within 4 miles,

El. 25. Lamb. 450. 5 Ed 6. c. 14. 5 Ed. c. 12.

Release.

Just. of P. compelleth one of his own motion to give surety of the peace untill a certain day, he may by like discretion release it before the day, Lam. 110. Cro. 139. b. nu. 16. Dal. 179. Party bound generally to keep the peace without any day limited, it is for life, and no man can release it, Lam. 110. Dal. 179. Cro. 142. Brook Peace 17.

Recognizance is taken at the suit of A. to keep the peace against him onely, A. may release it before the same Justice or any other that will certify it, Lam. 110. Dal. 179. Cro. 139. b. nu. 10. 169 a. That release being certified at the next Quarter Sessions will discharge the party bound of his appearance, so that he shall not be called upon for his recognizance, Dal. ibid. Cro. 139. b. nu. 15.

Recognizance is taken *versus cunctum populum*, *precipit* *versus A.* yet A. may release it before any Justice: *tamen quare*, Lam. 110. Cro. 142. b. Brook Peace 17 Dal. 180.

Recognizance is taken by discretion or upon suit, the King cannot release or pardon it before forfeiture, Lam. 111. Cro. 140. b. 141. Dal. 180.

The peace being released, the recognizance must not be cancelled, but certified at the Sessions with the release, lest peradventure the peace was broken before the release made, Lam 111. Dal. ibid. Cro. 139. b. nu. 16. 169. a.

Whether the good abearing taken upon complaint may be released by any special person, *Quare* Lam. 123. Dal. 197.

Neither

Neither the Justice of the Peace, nor the party can discharge a recognizance of the Peace by the release out of the Sessions; for first the recognizance is made to the King, and therefore none but the King can release or discharge it. Secondly, the recognizance is taken for the parties appearance, and the release cannot discharge the appearance, *Dal.* 180. *Brook Peace* 17.

The appearance is requisite notwithstanding any release made; first, for the safety of the recognizance; secondly, that others may object in open Sessions, if he have broken the Peace, that he may be indicted thereupon. *Dal.* 180.

E contra Cro. If the Justice of Peace at the Sessions do certify the release, by this the obliged is discharged, and shall not be called upon for his recognizance, nor his default recorded; for the principal cause of the recognizance was the keeping of the Peace, the which is discharged by the release which is certified at the Sessions, and then the appearance is but accessory to the same, and the intent is only that then he should finde new surety if the party will not release; and this is the common usage. *Cro.* 139. *nn.* 15.

Vide pluri Recognizance, & Forfeiture.

Religious Houses.

The owner of the site of a religious house dissolved, in yearly value under 200 pound, must keep a continual house there, or lose 20 nobles a moneth, to be enquired of and determined at the Quarter-Sessions, 27 *H. 8. c. 22*.
5. El. c. 2. Eam. 471.

2. *Heplevin, vi.* Bailment.

Resco

Restitution of Possession. 249

Rescous of a Felon.

Rescous is to help a prisoner to get away ; and if it be a felon, it is felony, *Lam. 229. Dal. 274, 275.*

Rescous of a felon before arrest is no felony, other wise after arrest, *Lam. 230. Dal. 276. Quare Stam. 31.*

Rescuing a prisoner going to the gallows is felony, *Dal. 276.*

A warrant being granted by a Justice of the Peace for unlawful hunting of Deer or Conies, to make rescous thereupon is felony, *Dal. 75.*

Rescous against an officer or person authorized to execute the statute of 39 *El. c. 4.* loseth 5 pound, and is to be bound to his good behaviour, *Dal. 128.*

If a stranger take one out of prison with the prisoners assent, if he be in for felony, it is felony by the common law in the rescuer, and he is a principal by the statute *De prisonam frangentibus, Cro. 38. a. m. 2.*

One is in the stocks for suspicion of felony, and is let out by a stranger ; it is felony, although the party who escaped is not indicted, *Cro. 35. a. m. 3.*

Restitution of Possession.

None shall have restitution but such as are put out of house or land, *Dal. 214. Cro. 162. b. Lamb. 153.*

If it be found upon enquiry that any have entred or held with force, contrary to the statute 8 *H 6. c. 9.* the Justice of Peace may re-seise and put the party so put out in full possession,

250 Restitution of Possession

possession, *Cro.* 161. b. *Dal.* 214. but the putting out must first be found, *Lam.* 152. *Cro.* ibid.

The Justice of Peace needeth not to stay or stand upon the right or title of either party *Dal.* 214. *Cro.* 164. a.

No restitution is to be made where there was only a possession in law, *Lam.* 153. *Dal.* 217.

In a restitution it is not enough that the putting out be found, unless the indictment also contain in it *adhuc extra tenet*, *Dal.* 217. *Cro.* 163. b. *Lam.* 153.

Restitution ought to be made to none other then the party put out, *Dal.* 214. *Cro.* ibid. b. *Lam.* 153.

After the entring or detaining with force is found, the Justice of Peace may by himselfe or precept to the Sheriff under the seal of himselfe alone restore the party grieved to his possession, *Dal.* 216. *Lam.* 156.

None can make restitution but they before whom the Indictment is found, but the Justices of the Kings Bench, either upon certificate made by the Justice of Peace before whom it was found, of the presentment, or if the said presentment or indictment be removed by *Certiorari*, *Dal.* 216. *Lam.* 157, 158.

If the Sheriff return upon a precept or writ of restitution that he cannot make restitution for resistance, he shall be amerced, for he may not take the power of the county, *Dal.* 216. *Lam.* 158. *Cro.* 163. b.

Justice of Peace before whom the presentment was made, dieth before restitution is made, whether the Justices at the Sessions can award it, *Lam.* 157.

Justices

Restitution of possession. 251

Justices of Peace ought not to award restitution where the indictment is insufficient in Law, either in matter or form, *Dalton. 215.*

In the indictment, 1. not only an entry must be, but also a putting out: 2. the Indictment must express the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable: 3. it must say, *Et adhuc extra tenent*: 4. *Expulerant & adhuc extra tenent*: 5. one of these two words, *manu forti*, or *cum multitudine*, *Dal. 214, 215. Cro. 169.b, 163.b. Lam. 153.*

If error or insufficiency be in the Indictment taken before Justices of Peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *superseas*, if the Sheriff have not made restitution before, *Dal. 214. Cro. 162.a.*

If restitution be made by Justices upon an insufficient indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Justice of Peace, *Dal. 215. Cro. 168.a.*

Causes to stay restitution.

1. No restitution upon an Indictment to be made, if the party indicted hath had the occupation, or been in quiet possession three years together, next before the day of the indictment found, and his estate not ended, which the party may alledge for stay of restitution, until it be tried, if the other will traverse or deny the same, *31 Eliz. cap. 11. Dal. 219.*

2. *Certiorari.*

3. **A**

3. A traverse: *quare* Lam. 158.

4. Insufficiency of the indictment.

5. Insufficiency of the Jurors not having
Thill. land by the year, *Dal.* 218. *Lam.* 152. b.
165. b. *Quare*.

Justice of Peace upon indictment found
may give restitution as formerly to free-
holders, to tenants for years by copy of Con-
guardians in Knights-service, tenants by El-
git, stat. Merchants or Staple, *Dal.* 207. 211.
c. 15.

‘ The disseisee outerth the disseisor by force
‘ the disseisor shall be restored, *Lam.* 148. *Dal.*
‘ 217.

‘ Upon traverse the Justice may stay res-
‘ tution, *Dal.* *ibid.*

‘ The disseisee entreth peaceably, and keep-
‘ eth out the disseisor by force; the disseisee
‘ shall not be restored, because the disseisee
‘ had the younger title. But the disseisee shall
‘ be imprisoned and fined, because he held
‘ with force, *Cro.* 162. b. *D.* 164. b. *Dal.* 217.

‘ The disseisee entreth quietly upon the
‘ disseisor, and so abide together divers daies
‘ & then the disseisee putteth out the disseisor
‘ by force, the disseisor shall not be restored.
‘ *Dal.* 217. *Cro.* 163. a. b.

‘ Wife, children, and servants do preserve
‘ possession, but cattel on the ground do not.
‘ *Dal.* *ibid.* *Cro.* 164. b.

‘ Two are in possession by several titles
‘ one house, the law judgeth him in possession
‘ who hath the best right to the possession.
‘ As *A.* enters wrongfully upon *E.* and both
‘ do continue in the house; afterwards *F.* puts
‘ out *A.* with force; *A.* shall not be restored.

Restitution of stoln goods. 253

for *A.* never gained possession by his entry,
Dal. 217. *Cro.* 163.b.

Two are joynt-tenants or tenants in common, whereof one forcibly putteth the other out of possession: *Quære* what a Just. of Peace may do therein, for that his entry and possession is lawful, *Dal.* 217. *Pax regis* 39.

Restitution of stoln goods.

He that hath goods stoln, if the felon be thereof indicted and arraigned, and found guilty thereof, or otherwise attainted by reason of evidence given by the party robbed, or the owner of the goods, or other by their procurement, then the goods shall be restored though they never made fresh suit, *Dal.* 306. *a.* 191.a. *Lam.* 586.

And the Justices have power to award writs of restitution, 21 *H.* 8. c. 11. *Lam.* 586. *Cro.* 191. a. *Br. Restitution* 22. *Dal.* 306.

Executors shall have restitution after attainer or conviction upon evidence by their means given, *Dal.* 306.

Three are robbed, restitution shall be one to such for whose goods the felon was indicted, *Dal.* 306. *Cro.* 191. a.

A felon stealeth from several men, is attainted only at the suit of one; the King shall have the goods of those at whose suit he was not attainted, *Dal.* 306.

There be divers thieves, and onely one principal is attainted, the robbed shall have restitution, *Dal.* 307.

If the felon sold the stoln goods in market vest, or in a fair, no restitution, except he

M

that

that bought them were privy to felony, *Cro. 191. a.*

No restitution of stolen goods, if he knew not the felon, *Dal. 307.*

No restitution if the felon leaveth the goods and escapeth, and the Lord of the Manour seisseth them, *Dal. 307.*

If the felon had not the goods in his possession when he fled, but left them elsewhere they are not waived, but the owner may take them wheresoever he findeth them, *5. 109. Dal. 307.*

‘A man had his horse stolen, and so he published it, but knew not who stole it, so that he could not indict him, &c. It seemeth that he shall not have his horse again, for it was his folly to publish that it was stolen, for he might have demanded it as lost. And when he knew who took his horse, he might afterwards indict him, *Cro. 191. b.*

Return.

Recognizance taken by the Justice of Peace *ex officio*, ought to be returned at the next Sessions, *Lam. 109. Dal. 173. Cro. 139. a. Supplicavit* is to be returned into the Court whence it came, *Lam. 107. Dal. 177.*

Return of a Recognizance upon a *Supplicavit*, is not of necessity till *Certiorari*, *Lam. 107.*

Return of Jurors, *vide Jurors.*

Vide Recognizance, & Release, & Certificate.

Riots.

Riot is where three or more persons disorderly assembled to commit with force

any unlawful act, and do accordingly execute or attempt the same, *Lam. 176. Cro. 61. a. nu. 2. Dal. 221.*

Three or more enter into land with force, &c. where their entry is lawful, it is a riot, *Dal. 225. Cro. 64. a. nu. 49.*

What Assemblies shall not be said a Riot.

1. Sheriff or Bailiff levy people to serve the Kings Writs, *Lam. 178. Dal. 223.*

2. Constable gathereth assistance of men with weapons to part an affray, *Lam. 178.*

3. A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to market, *Lam. 179. Dal. 224. Cro. 64. a. nu. 42.*

4. Many assemble together, and they know not to what end, *Lam. 179. Cro. 61. b. nu. 7. Dal. 222.*

5. Many assemble at a Church-ale, or at a Christmas dinner, and they suddenly fall out and fight, *Lam. 179. Dal. maketh quare 223.*

6. A number of women and children under the age of discretion flock together for their own cause, unless moved by a man of discretion to do some unlawful act, *Lam. 180. Dal. 225.*

7. To gather meet company to carry away a piece of timber which will not be moved without a good many, where-to I pretend right, though in law it be anothers, *Lam. 178.* yet if he use threatning words, as to say he

will have it in spight of the other, or though he die for it, his doing may then become a riot, *Dal.* 225. *Lam. ibid.*

8. To meet to drink at an ale-house, to play at foot-ball, bucklers, bear or bull-baiting, dancing, bowls, cards or dice, or such like disports, *Dal.* 223. *Lam.* 178. *Cro.* 61. b. nu. 7.

9. To use harness on Midsummer-day at night in London, or on May-day in the countrey, *Lam.* 178. *Cro.* 64. a. nu. 43. *Dal.* 223.

The master intending a riot, taketh with him his ordinary servants, who know not his intent, it is no riot in the servants, *Lam.* 179. *Cro.* 61. b. 62. a. nu. 13. *Dal.* 222.

A Jury falleth out and fighteth, it is no riot, *Dal.* 222. *Lam.* 180.

If any assemble for any disports, as aforesaid, with intent to break the peace, and make an affray, or do other outrage, it seemeth to be a riot in so many as come with such intent, *Dal.* 223.

Quære if falling out suddenly at such a meeting, and then falling to take parts, be a riot, *Dal.* 223, 224. But if by agreement they meet again and fight, it is a riot, *ibid.* *Vide Dal.* 224. *Cro.* 61. b. nu. 12.

It can be no riot, except there be an intent precedent to do some unlawful act with force, *Dal.* 222. *Cro.* 62. a. nu. 13.

Yet if a man go to Sessions or market with his servants in harness, though there be no intent to commit a riot, yet the manner maketh a riot, *Cro.* 61. a. *Vide* 2 E. 3. cap. 3. *Dal.* 225.

*What one Justice of Peace is to do
in case of Riots.*

He may prevent a riot before it be done ,
or stay it in the doing, and in the doing may
take and imprison the rioters, and bind them
to their good behaviour, *Dalt.* 109. *Lam.*
181.

A riot being done, Justices of Peace can
neither record the riot , nor make enquiry ,
nor assess the fine, nor award process, nor
meddle with it, but only as a trespass against
the peace, or upon the statute of Northamp-
ton of forcible entry, *Dalt.* 110. *Lam.* 181.

Justices of Peace sitting in a judicial
place, and seeing a riot , may command
them to be arrested , and record it, and it
concludeth the offenders, *Dalt.* 110. *Cro.* 65.
nn. 54. *Lam.* 385.

But a Justice of Peace in another place
seeing a riot , and recording it , the parties
may traverse it, *ibid.* *Cro.* 65. a. *nn.* 53. *Lam.*
386.

Every Justice of Peace being of and in the
county, having notice of any riot, ought to
have a care to execute the statute 13 H. 4. c. 7.
viz. that the rioters be arrested, &c. and
removed, otherwise the next Justices for it
an hundred pound a piece , and every other
Justice in whom there shall be default, finea-
ble in the Star-Chamber, *Dalt.* 110. *Cro.* 124.
a. *nn.* 22.

One Justice of Peace may arrest rioters,
enforce them to find sureties for the peace
or good behaviour, or in default commit
M 3 them

them to prison, *Dal.* 112. *Cro.* 157. b. *Lam.* 181.

A Justice of Peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come, or else arrest them if they offer to break the peace, *Dal.* 110. *Lam.* 181. *Br. Peace* 7.

If the Justice of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to find sureties for the peace, and his command by word is sufficient, *Dal.* 110. *Cro.* 64. a. *nn.* 45. & 148. b.

One Justice of Peace may cause all statutes for suppressing of riots to be put in execution, *Dal.* 111.

If the riot be notorious, it is not safe to stay complaint or information, *Dal.* 111.

*What two Justices of Peace may
do in a Riot.*

They ought to send for the Sheriff or Under-Sheriff, if none of them come, *Dal.* 112. *Lam.* 327.

If one or two next Justices do come, and not the Sheriff or Under Sheriff, such as come shall be excused of their fine of 100 pound, *Dal.* 111. *Lam.* 327. *Cro.* 63. b. *nn.* 35.

If one Justice of Peace in the county shall execute the statute of 13 *H.* 4. c. 7. it shall excuse the next Justices, *Dal.* 112. *Lam.* 326, 327.

Two Justices of Peace present without the Sheriff, are fineable if they do not all which by the statute of 13 *H.* 4. c. 7 ought to be done, *Dal.* 112, *Lam.* 327.

If two Justices of Peace (without the Sheriff or Under-Sheriff) See persons committing a Riot, they may cause them to be arrested, and record it, *Lam.* 319. *Quare.*

The particulars which the two next Justices of Peace with the Sheriff or Under-Sheriff must do upon the statute of 13 H. 4. c. 7. Dal. 113.

1. They must go to the place where the riot is, *Dal.* 113.

2. They shall take the power of the county (*viz.*) all above 15 years of age, under the degree of Barons, upon pain of imprisonment, fine and ranfome, *Dal.* 114. *Cro.* 157. b. *Lam.* 314, 315.

It is not good to raise the power of the county without certain information and knowledge, yet they may do it upon information, (though it be false,) and be excused, or without information, if when they come they find one, *Dal.* 114. *Lam.* 315, 316. *Cro.* 64. b. *uu.* 49.

3. They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons, *Dal.* 114. *Lam.* 316, 317.

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth, *Dal.* 115.

Such as they meet coming from the place riotously arraied, they may arrest and impri-

son, but cannot record any riot done by them, but after enquiry may fine them, *Dal.* 114. *Lam.* 316. *Cro.* 63. a. *nn.* 32.

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that process may come from thence, *Dal.* 115. *Lam.* 318.

The Justices may grant a warrant for such as they saw escaping, to be bound to the good behaviour, *Dal.* 115. *Cro.* 196. a. *nn.* 27.

And so they may do upon information, but it is best to do it upon inquiry, and so to fine them, *Dal.* 115.

In execution of the said arrest of rioters, the Justices may justifie the beating, wounding, or killing of any the rioters which resist or will not yield, *Dal.* 115. *Lam.* 316. *Cro.* 62. b. *nn.* 20. & 158. b.

4. After arrest the Justices, Sheriff or Under Sheriff shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formal and certain, as time, place, number, weapons, manner, &c. *Dal.* 119. *Cro.* 63. a. *nn.* 31. *Lam.* 316, 317.

The form of the record, &c. de Dal. 401. *La.* 220.

If in going to see a riot, another riot happen in their presence they may record it, arrest and imprison the offenders, *Dal.* 115. *Lam.* 318.

If the rioters make a riot upon the Justices, they may record it also, *Dal.* 115.

Justices record a riot, and upon examination

tion it appears no riot, or saw it not, or there was no riot, yet the parties are concluded, *Dal.* 116. *Cro.* 63. a. *nu.* 33, 65. a. *nu.* 56, 130. *Lam.* 317.

5. The Justices are presently to commit rioters to the goal, and the power of the county ought to be aiding to the Sheriff or Under-sheriff, *Dal.* 116, 117.

None may commit the rioters but the Justices who had the view, *Dal.* 116.

If the Justices and Sheriff or Under-sheriff commit to prison the offenders, and do not record the riot, every one of them loseth 100 pound, or do record the riot, and do not commit the offenders, *Dal.* 117. *Cro.* 61. *nu.* 10.

6. The said Justices and none other shall assess the fine upon the offenders, which by the statute of 1 H. 5. c. 8. ought to be of good value, that thereout the charges of the Justices and other officers may be born, yet must it be reasonable and just, *Dal.* 116. *Lam.* 117. *Co.* 161. a. *nu.* 45.

The fines must be imposed upon every offender severally, *Dal.* 117. *Co. lib.* 11. 43, 44.

The fine must be estreated into the Exchequer, *Dal.* 117 and then to deliver the offender as it seemeth, *ibid.*

The Justices, as it seemeth, may out of the fines pay the charges of the said Justices, and of the Jury who made the enquiry, for their diet, and the Sheriffs fees; and the Justices Clerk who maketh up the record, may have his fees out of that money, or rather may take of every offender 12 pence when they pay their fines, *Dal.* 119.

Or the Justices may record the riot, commit the offender, and after certify the record to the Assizes, Sessions, or Kings Bench, *Dal.* 117.

The record may be delivered at the Sessions to the Clark of the Peace, together with the residue of the money remaining of the fine, *Dal.* 119.

Where the Justices of Peace are remiss in punishing the rioters, the Lords in the Star-chamber may & do often assess greater fines for the same riot, *Dal.* 120. *Cro.* 63. a. m. 30.

7. If the riot was not committed in the presence of the Justices, or the rioters gone before their coming, two Justices at least within one moneth next after must enquire thereof by a Jury returned by the Sheriff, and record the riot being found, which is to remain with one of the said Justices, *Dal.* 117. *Lam.* 321.

The form of such enquiry, vide Dal. 402. *Lam.* 329.

Enquiry shall not be unless the rioters be gone, *Dal.* 117.

It is not necessary that one of the Justices of Peace be of the Quorum, *Dal.* 118. *Cro.* 62. b. m. 25.

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100 pound; yet if the Jury be charged within the moneth, and have day after to give up the verdict, the statute is not broken, *Dal.* 118. *Lam.* 322.

At the enquiry the Sheriff or Under-Sheriff must be present, but then as Ministers once *Dal.* 118. *Lam.* 321.

The Justices assemble to enquire within the moneth, the parties agree, and the Justices dismiss there upon the Jury, the Justices shall be fined, though none will sollicite the Inquest, or give evidence to the Jury; for the Justices ought to proceed *ex officio*, seeing some of the Jury may have knowledge of the riot, and they ought to make proclamation if any will give evidence, *Dal.* 118. *Lam.* 322.

If at the parties request the Justices dismiss the Jury without enquiry, they are fineable in the Star-Chamber to the King, *Dal.* 118; *P. R.* 29.

The Justices may bind to the good behaviour the parties complaining of the riot, who caused them to meet, and will not prosecute for the King, but have agreed it, *Dalton* 118.

Though the Justices go not to see the riot, yet they may enquire within a month after, *Lam.* 321.

8. After enquiry had and the riot found, the Justices have power to hear and determine the same, (*viz.*) First to make out process against the offenders under their own test. Secondly, to assess the fine. Thirdly, to commit till they have paid the fine. Fourthly, to deliver them after payment of their fine, or sureties taken by recognizance, or otherwise they may receive their traverse, if the matter will serve, and dismiss them, *Dal.* 119. *Lam.* 323. *Br. Imprif.* 100.

But the Justices should send such Indictment or inquisition to the next Quarter Sessions, or into the Kings Bench together, with the said traverse, there to be tried, *P. R.* 30. *Dal.* 119. 9. If.

9. If the riot upon enquiry cannot be found, the Justices and Sheriff must certify into the Star-Chamber, or Council-Board, or Kings Bench, the whole fact and circumstance, with the names of the offenders *perna*, Dal. 120. Lam. 323, 324. *Pramun* Br. 1.

The certificate must be made within a moneth after the enquiry, or else it is of no force, Dal. 121. Lam. 344.

Though two Justices with the Sheriff see the riot, yet two other Justices may make the enquiry, and they all together, or the first two, or last two, with the Sheriff or Under-sheriff, may make the certificate, Dal. 121. Lam. 325.

Where the several certificates be made, or certificate and enquiry do disagree, the best for the King shall be preferred, Dal. 121. Lam. 325.

If the Jury find but some guilty, the Justices may certify the rest, Dal. 121. Lam. 325.

Any material thing left out in the inquiry, may be supplied in the certificate, Dal. 121.

Quære if after enquiry and before certificate the Sheriff die, or one of the Justices be put out of Commission, whether a certificate can be made, Dal. 121. *Vide* Lam. 326.

Upon the certificate of two Justices and the Sheriff, the Lord Chancellour may grant a *Capias* to attach the offenders, Dal. 121. Lam. 313.

Upon default of the Justices and Sheriff in not executing the statute 13 H. 4. c. 7. the party grieved may have a Commission out of the

the Chancery, to enquire of the riot, as also of the Justices and Sheriffs default, *Dalton* 121.

Also the Lord Chancellour may send his writ to the Justices and Sheriff to execute the statute of 13. *H. 4. c. 7. Dal.* 121.

The Justices and other officers shall do their offices at the Kings charge in going, carrying and returning, in doing of their said offices, by payment thereof to be made by the Sheriff for the time being, by Indenture betwixt him and the said Justices and other officers aforesaid to be made of the payment thereof, whereof the Sheriff upon his account in the Exchequer shall be allowed, 2 *H. 5. c. 8.*

The Sheriff is to return 24, whereof every one hath lands and tenements within the same shire of 20 s. *per ann.* of charter lands, or 26 s. 8 d. of copyhold, or of both *ultra reprisas*; and must return for issues upon every one at the first day 20 s. at the second 40 s. if they do not appear and be sworn the first day. And the Sheriff or Under-sheriff not returning persons sufficient, loseth for every one 20 li. to the King, 19 *H. 7. cap. 13.*

If the riot, rout, or unlawful assembly be not found by the Jury by reason of any maintainance or embracery of the Juries, the Justice, Sheriff, or Under-sheriff, (besides such certificate to be made by 13 *H. 4.*) shall in the same certificate, certify the names of the maintainers or embracers, upon pain of every Justice, Sheriff, or Under-sheriff 20 li. (if they have not reasonable

'sonable excuse) which certificate shall be
 'of force, as if the matter therein found
 'were found by the verdict of twelve men.
 'And every maintainer and embracer for-
 'feiteth twenty pound, and to be committed
 'to ward, to remain during the discretion of
 'the Justices, 19 H. 7. c. 13.

'Indictment of a riot is not good unless it
 'say *contra formam statuti inde editi & provis-*
 'Cro. 102. a. nu. 19.

Rivers.

Every Justice of Peace is a conservator of
 rivers within his county, and may survey the
 wears in rivers that they be of reasonable
 wideness, Lam. 189.

Robbery.

Robbery is a violent taking away of any
 goods from any mans person, with intent to
 steal them, and putting him in fear thereby,
 though the thing taken be but to the value of
 an half-peny, Cro. 33. b. nu. 1. Lam. 267. Dal.
 260.

But if a felon take money from me in the
 high-way, and shall not put me in fear, it is
 not robbery, Dal. 260. Cro. 34. b. nu. 12. Lam.
 266.

If a thief take nothing from my person, but
 assaulteth me, whereby he getteth any thing
 from me, it is robbery, Dal. 260. As,

1. I cast my purse on the ground, and he
 taketh it away, Lam. 268. Dal. 261.

2. After assault he prayeth me to give him
 a penny, and I do so, Dal. 261.

3. If upon assault I deliver my purse, Dal.

61. Cro. 34. b. nu. 10. Lam. 267, 268.

4. If flying from a thief, I cast my purse into a bush, and he doth afterwards take it away, Dal. 261. Cro. 35. a. nu. 10. Lam. 268.

5. If upon assault I flie away, and my hat fall, and the thief carry it away, Cro. 35. a. nu. 28. Dal. 261.

6. If a thief bid me deliver my purse, (without any force used) and I deliver it, and he finding but two shillings in it, delivers it again, Cro. 34. b. nu. 10. Dal. 261.

7. If by threats he compel me to swear to bring him mony, and afterward I bring him the mony accordingly, Dal. ibid. Lamb. 268.

In some cases it is robbery, though the thief neither take it from my person, nor assault me.

As, 1. A thief taketh my goods openly in my preience against my will, the fear is the like as if it had been from my person, Cro. 34. a. nu. 5. Lam. 269. Dal. 261.

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in fear, Dal. ibid. Cro. 34. b. nu. 5.

3. To make it robbery, the person must be put in fear, Cro. 34. b. nu. 12. Dal. 261.

4. Two come to rob me, and one acteth it, being out of the sight of the other, who after returneth to him; it is robbery in both, Cro. 34. a. nu. 10. Lamb. 270. 28. El. Pudseys case, Dal. 262.

To assault one to rob him without taking any thing, is not robbery, Cro. 34. a. nu. 9. Dal. 261.

After a robbery committed, the Hundred must answer the loss, if the robbers be not taken.

taken within 40 daies : if it be done in the division of two Hundreds, both Hundreds and the franchises within them must be answerable, and the hundred wherein defect of fresh suit is, the one moiety, *Dal.* 131. 27 *El.* 13.

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20 daies next before the action brought, upon his corporal oath before some one Justice of Peace of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if he confess he knoweth any of them, then shall he before such action brought, enter into recognizance before the said Justice, effectually to prosecute such persons by Indictment or otherwise according to the due course of the laws of this Realm, 27 *El.* 13. *Lam.* 202. *Dial.*

After robbery committed, the robbed shall not recover against the Hundred, except 1. with all convenient speed he give notice of the robbery to some inhabitant neer to the place where the robbery was committed.

2. He commence his action within a year and a day next after such robbery committed.

3. He be examined *ut supra*, before a Justice of Peace, *Dal.* 131.

Any two Justices of Peace in the Hundred, one being of the *Quorum*, may assess all towns and parishes in the said Hundred and Liberties therein, upon recovery and execution had against any of the Hundred, towards an equal contribution; which money the Constable

Constable must deliver to the same Justices within ten daies after collection, and they upon request, to those to whose use it was collected, *Dal. 132. Cro. 197. a.*

And the Hundred shall be assessed in like sort in default of pursuit of fresh Hue and Cry, *Dal. ibid.*

Robbery in a house doth not charge the Hundred, whether it be done in the day or in the night, *ibid.*

The Hundred is discharged upon taking of any of the offenders by pursuit, *Dal. 133.* so if the party robbed take any of the offenders after Hue and Cry made, *Dal. ibid.*

Robbing of an house.

1. Robbing a house or any out-house, as a barn or stable in the day, to the value of 5 shill.

2. Robbing a house by day or by night, any person being therein, and thereby put in fear.

3. Robbing any person in any part of his dwelling-house, the owner or dweller, wife children, or servants being in any place within the precinct of the same, sleeping or waking.

4. Robbing any Booth or tent in fair or market the owner, his wife, children or servants being in the same, sleeping or waking.

All these are as penal as Burglary, *Dal. 287, Lam. 265. 39 El. c. 15. 21 H. 8. c. 1. 5 E. 6. c. 9*

Rogues.

All persons here under mentioned, being above the age of 7 years, may be punished as Rogues,

Rogues, *Dal.* 123. 39 *El.* c. 4.

1. All going about begging upon any pretence or colour, though licensed by any subject, except in some particular cases after mentioned, *Dal. ibid.* *Lam.* 442.

2. All going about the country using any subtil craft or unlawful games, as fortune-tellers, jugglers, *Dal. ibid.*

3. All proctours, patent-gatherers, or collectors for prisons and hospitals, *Lam.* 442. *Dal. ibid.*

4. All fencers, bear-wards, common-players of interludes, and minstrels wandring abroad, *Dal. ibid.* *Lam.* 443. 1 *Fac.* c. 7.

5. All pedlers, pety-chapmen, tinkers, and glass-men wandring abroad, 1 *Fac.* c. 7. *Dal. ibid.* *Lamb.* 443. 21 *Fac.* c. 28.

6. All wandring labourers able in body, refusing to work for reasonable wages, having nothing but labour to maintain themselves, *Dal.* 124. *Lam.* 443.

But such as are of any parish, able to work, and do not wander, but refuse to work for the usual wages taxed in those parts, are to be sent to the house of correction, *Dal. ibid.*

7. Poor of the parish begging otherwise then is appointed them, or begging by high-waies, *ibid.* are to be sent to the house of correction.

8. All pretending to be Ægyptians, not being felons. *Dal. ibid.* *Lam.* 443.

9. Soldiers or mariners that begg, except soldiers or mariners having a testimonial from a Justice of Peace near the place of their landing, with the place of their dwelling or birth to which they are to pass, and a com-

venient

- nient time limited for their travel, and
 pursuing the said licence 39 *Eliz.c.4.* or do
 counterfeit any certificate from their Gene-
 ral, Governour, Captain, Lieutenant, Mar-
 shal, Deputy or Admiral, *Dal.124.*
 10. Diseased persons travelling to the Baths
 and licensed, if they beg, or not licensed by
 the Justices, or not returning as they are
 ordered, *Dal.124. Lam.443.*
 11. A rogue once whipped, not performing
 the order appointed by his testimonial, *Dal.*
 12. A rogue going with a general passport,
 not directed from parish to parish, *Dal. ibid.*
 So a rogue carrying his own passport with-
 out a guide, *Dal.124.*
 13. Servant departing out of service with-
 out testimonial, 5 *El.c.4.* or taken with coun-
 terfeited testimonial, *Dal.124.*
 14. Persons infected with the plague, or
 dwelling in infected houses, going abroad
 contrary to order, 1 *Jac.c.31. Dal. ibid.*
 15. Persons able to labour and relieve
 themselves and families, that run away, or
 threaten to run away and leave their charge
 to the parish, 7 *Jac.c.4. Dal.125. 21 Jac.c.*
 16. Any calling himselfe a scholar, that
 hath gone about begging, *Lam.443.*
 17. Any pretending loss by fire or other-
 wise, that wandring beggeth, *Lam.443.*
 18. Any delivered out of gaol, that hath
 begged for fees, *Lam.443.*
 Any Justice of Peace may appoint any per-
 son to be openly whipped naked, even unto
 bleeding, that shall be taken begging, wan-
 dring,

dring, or misordering himself, and is declared by the statute 39 *El.* 4. to be a rogue, vagabond, or sturdy beggar, and shall be him so whipped to be sent from parish to parish by the officers of the same, the next to the parish where such person was born, it can be known; if not, to the parish where such rogue last dwelt before the punishment by the space of a year, there to labour; not being known where he was born dwelt, then to the parish through which he last passed without such punishment, whom the Justice shall under his hand and seal make a testimonial witnessing his punishment, day and place thereof, and whither he is limited to travel, and by what time. And in case such place of birth and last dwelling be not found nor known, then such person shall, by the officer of such village through which he last passed without punishment, be conveyed to the house of correction of the limit, or to the common gaol, 39 *Elix.* there to remain in work until such person be placed in service for one years continuance, or not being able of body, till such person be placed in some alms-house of that place or county, *Lam.* 204, 205.

‘ The like may be done by Constable assisted with the advice of the Minister, and other of the parish, 39 *Elix.* c. 4.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the county to which he is sent; and if there be none there, then to the gaol untill the next Sessions: so if he misreports the place of his last dwelling by the

of a year, if it appear not where he was
Lam. 207. Res. 1, 2. Dal. 128.

Husband and wife having an house, rogue
 out, they must be sent to the town where
 the house is; and so of an inmate, *Lam. 207.*
3. Dal. 125.

Wife, and children under 7 years being va-
 grant, are to be placed with the husband; if the
 husband be dead, then where they were born,
 and dwelt last, *Lam. ibid. Res. 4, 9, 10. Dal. 125.*
 Children vagrant above 7 years old must
 be sent to the place of their birth, *Dal. 125.*
Lam. 207. Res. 4.

Vagrant parents, with their children un-
 der 7 years of age, being once placed at the
 place of birth of their parents or last dwell-
 ing, the parents dying after, or running a-
 way, the children once settled must still re-
 main there, *Dal. 125. Res. 4. Lamb. 207.*

Wife vagrant is to be sent to her husband
 though he be but a servant, *Lam. 208. Res. 5.*
125.

Rogue, whose place of birth or dwelling
 cannot be known, hath wife, and children
 under 7 years of age, they must be sent with
 the husband to the place where they were
 suffered to pass unpunished, and the chil-
 dren must be relieved by the work of the pa-
 rents, though the parents be sent to the house
 of correction, *Lam. 208. Res. 6.*

Rogue sent to a town, and refused by the
 church-wardens and Overseers to whom he
 is to be offered, is a forfeiture of 5 pound in
 refusal, *Lam. 210. Resol. 12, 14. Dal. 128.*

Any hindering the execution of the law
 32 Eliz. or any part thereof for the con-
 veying

' conveying of Rogues, forfeiteth five pound
 ' And any two Justices may bind such offe
 ' der to the good behaviour, and upon co
 ' fession of the offender or oath of two may
 ' warrant under their hands and seals
 ' the said sum of five pound to be levied
 ' distress and sale of the offenders goods,
 ' 128.39 *El.cap.4.*

Rogue sent from the place where he is
 ken, by a general passport, without convey
 ing him from parish to parish, is a let in
 conveying of rogues, and a forfeiture of
 pound, *Lam.210.Res.13.Dal.128.*

Rogue going with such a passport, co
 tinuing a rogue, is to be punished by whi
 ping, *ibid.*

By parents is to be understood father
 grand-father, mother or grand-mother,
 ing able persons, *Lam.210.Res.16.*

By children, any child or grand-child,
 ing unable, *Lam.210.Res.15.*

Diseased persons living of alms, and trav
 lers to Bath or Buxton for remedy, are to
 licensed thereto by two Justices of Peace,
Eliz.cap.4.Lam.332. yet may not beg,
 must be provided of maintenance for the
 travel, *Dal.124.*

Forfeiture of offences against the statu
 39 *El.c.4.* upon conviction by confession
 by two witnesses before two Justices of Pea
 they may cause the same to be levied by w
 rant under their hands and seals, by distre
 and sale of the offenders goods, 39 *El.c.*
Lam.331. See 1 *Is.c.7.Dal.129.*

All questions growing upon the statute
 rogues, may be heard and determined by t
 Justic

Justices of Peace whereof one of the Quorum,

Dal. 129. 39 Eliz. cap. 4.

Constable or Tithing-man not doing his endeavour to apprehend rogues within their limits, or wilfully suffering them to escape unpunished, forfeiteth 20 shill. for every offence, *Dal. 128.* and 5 pound if they do not convey them away towards their dwelling or place of birth, *39 Eliz. cap. 4. Lam. 444. 1 Jac. cap. 7.*

Dal. 129.

Minister of the parish not keeping a register of the testimonial of rogues punished in his parish, and conveyed thence, loseth for every default 5 shill. *39 El. c. 4. Dal. 129.*

Every one is to carry to the Constable such beggars as they shall know to come to their doors for alms, or lose 10 shillings, *1 Jac. c. 7. Dal. 129.*

Justices of Peace are to meet twice a year at the least, and oftner if occasion be, in their several divisions, for the executing of the statute against vagabonds, and four or five daies before by warrant to command the Constables of hundreds or towns, by assistance of some of every town, to make a general privy search by night for finding and apprehending rogues to be brought before the Justices at their meeting by them, and punished, or sent to the house of correction, *7 Jac. c. 4. Dal. 130. 21 Jac. c. 28.*

Constables at every meeting of the Justices of Peace for the execution of the statute of rogues, are to give an account upon oath in writing, and under the hand of the Minister of the parish, what rogues, &c. they have apprehended both in the same search, and also between

between every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, be fined under 40 shill. as by the most of the Just. shall be assessed, 7 *Iac. c. 4. Dal.* 130.

No man is to be put out of the town where he dwells, or sent to his place of birth or last habitation, but onely a vagrant rogue, *Dal.* 126. *Ref. 9. Lam.* 209.

So of them whose terms of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent, *Dal.* 126.

Dangerous rogues are to be banished, or condemned to the gallies by the Justices at their Quarter-Sessions, 39 *El. c. 4. Lam.* 417. *Dal.* 287.

Rogues by judgement of most of the Justices of Peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R. and then to be sent to their dwelling; if they have none, then to their last dwelling-place where they dwelt for a year; or if that cannot be known, to their places of birth, 1 *Iac. cap. 7.* If he offend again in begging or wandring, it is felony without clergy, 1 *Iac. c. 7. Lam.* 428. *Dal.* 287.

Souldiers and mariners having a testimonial under the hand of the Just. next to his landing place, of the time and place of his landing, limiting the place to which he is to pass, and the time; if he pursue the said licence, he may ask and take such necessary relief as any will give him, 39 *El. c. 17. Lam.* 303. *Dal.* 126.

Two Justices of P. may send to the house of correction, as a sturdy rogue, a person able to work, threatening to run away and leave his family upon the parish, being proved by the oath of two before the said Justices, unless he can put in sufficient bond for discharge of the parish, 7 *Iac.c.4.Lam.331.*

He which runneth away and leaveth his charge to the parish, is an incorrigible rogue, 7 *Iac.c.4.*

Rome, *vide* Pope, Co.11.36.

Rout.

Rout is where three or more persons be disorderly assembled to commit any act with force, whether they put in execution their purpose or no, if they so do go, ride, or move forward after their first meeting, *Lam. 176. Dal.221.*

A rout is only by some opinions, where three or more do assemble for their own common quarrel: As, the inhabitants of a town assemble to pull down a house, wall, pale, ditch, or other inclosure, pretending to have title of common, or a way there, or to beat a man that hath done some publick offence, *Dal.221,222.*

Sacriledge.

Sacriledge is the felonious taking of goods out of any Church or Chappel, *Lam.420.*

N

Sacraments.

Sacraments.

Three Justices of Peace may take accusation by oath of two witnesses against such a deprave the Sacrament of the Supper, and examine what witnesses were by, and bind them all to give evidence at the day of trial and they being found guilty shall be imprisoned and fined, 1 Ed. 6. c. 1. Dal. 134. *Quare Lam. 416, 366.*

Three Justices of Peace, one being of the Quorum, may award against one indicted upon the statute of 1 E. 6. c. 1. for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias*, *alegat.* into any shire, 1 Ed. 6. c. 1.

Justices of Peace in their Q. Sessions may enquire, hear and determine of all recusants and offences, as well for not receiving the Sacrament according to 3 Jac. c. 4. as not repairing to Church. And in their Sessions (wherein there shall be indictment taken for not repairing to Church, or not receiving the Sacrament) to make Proclamation to render their bodies to the Sheriff before the next Sessions, and in default, a conviction, 3 Jac. c. 4. Lam. 816.

Salmons, *vide* Fish.

Salt-peter-men.

Salt-peter-men cannot dig in the mansion house of any subject without his assent, in regard of the danger that may happen thereby in the night-time to the owner, his family and goods, by thieves and other malefactors. 24. H. 8. 2. Dal. 209. *Vide* House.

School

School-master.

To keep or maintain a School-master which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocess, the maintainer forfeits 10 pounds for each month, and the School-master to be imprisoned for a year without bail, and disabled, 23 *El.c.1. Lam.* 419.

Any keeping a School, or being a School-master out of the University, except in publick Grammer-school, and except in such Noblemen and Gentlemens houies as are not Recusants, and licensed by the Arch-bishop or Guardian of the Diocess, both keeper and School-master forfeits 40 s. a day, 1 *Jac.c.4.*

Seditious Sectaries.

One Justice of Peace may within three months after the conviction of any seditious Sectary or Popish Recusant described in the statute of 35 *El.c.1.* require the submission of him to conformity, and in default of such submission, may require him to abjure the Realm; and if he refuse, or after return without licence, it is felony, 35 *El.c.1, & 2. Lam.* 204.

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Serving-men, *vide* Testimonial.

280 Sessions of the Peace.

The Sessions of the peace is an assembly of any two or more Justices of Peace, one being of the *Quorum*, at a certain day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to hear and determine according to their power of caules within the Commission and statute referred to their charge, *Lam.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing, *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriff, and by him to be returned at the Sessions, *Lam.* 381.

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the *Quor.* but not the *Custos Rotularum* alone; and summons cannot be discharged by *Superfideas* of all the other Justices, but by *Superfideas* out of the Chancery, *Lam.* 382, 383.

Sessions held by one Justice of Peace is not good, although it were summoned by two and styled by their names; but by two sufficient Justices it is good, though it be styled by the name of three, *Lam.* 383.

Quarter Sessions are to be held four times in the year, (*v. z.*) the first week after S. Michael, the Epiphany, the clause of Easter after the translation of S. Thomas the Martyr, which is 7 July, 2 H. 5. c. 4. *Lam.* 597.

* The Easter Sessions by 33. H. 8. c. 10. are to be holden the Tuesday next after Low Sunday, *Lam.* 605.

Justices of Peace shall hold their Sessions

Sessions of the Peace. 281

be held four times in the year, viz. Once within the Octaves of the Epiphany: the second, in the second week of Lent: the third, between the Feasts of Pentecost and St. John Baptist: the fourth within the Octaves of St. Michael, 36 Ed. 3. c. 12. Cro. 123. b. nu. 16.

Where *Crompton* noteth, that by 12 R. 2. c. 10. it is ordained that the Quarter Sessions should be held every quarter of a year at the least, and three daies if need be; by which it appeareth that the usual day is not of necessity, so it be kept within a quarter of a year, Cro. *ibid*.

By the statute 2 H. 5. c. 4. Justices of Peace shall keep their Sessions four times in the year, viz. in the first week after S. Michael, in the first week after the Epiphany, in the first week post claus. Pascha, and in the first week after the Translation of St. Thomas the Martyr, which is the 7 of July, and oftener if need be, Cro. 123. b. nu. 17.

Cro. 123. b. nu. 18. saith, that upon the stat. of 17 R. 2. c. 9. (which permitteth to keep Sessions so oft as is expedient,) in Kent they keep their Sessions at other times then the times appointed by 2 H. 5. c. 4. and that it is good.

The place where the Sessions are to be holden is arbitrable, and therefore though by summons they be to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance, Lam. 383, 384.

Two Sessions at one time for one County lawfully summoned at two places, both are good,

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good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good, *Lam.* 384.

At a general Sessions all matters enquirable by Justices of Peace, either by their Commission or by statute, ought to be given in charge, otherwise at a special Sessions, *Lam.* 623. and may be held three dayes, 606. 12 R. 2. c. 10.

Two sorts of men owe their ordinary attendance at the Qu. Sessions, (*viz.*) officers and ministers of the Court, and Jurors of the County, *Lam.* 386.

Officers are the *Custos Rotulorum*, where he ought to attend by himself or his deputy, *Lam.* 327.

The Clark of the Peace, *Lam.* 393.

The Sheriff, *Lam.* 395.

The Coroners, *Lam.* 394.

Ministers, as Bailiffs of Franchises, Constables of Hundreds, the Ordinary, *Lam.* 395. Jurors for enquiry and trial, *Lam.* 396.

The Justices of Peace if need require, may keep a special Sessions by virtue of their commission, or by the statute 2 H. 5. c. 4. *Lam.* 623.

Summons of a special Sessions is for the most part for some special enquiry, and not to the general service of the commission, *Lam.* 623.

All matters within the commission or statute may at a special Sessions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them, *Lam.* 623, 624.

If two Justices of the Peace, one being of the Quorum, make a precept to the Sheriff for the holding a Sessions at such a place and day, and to return a Jury before them, other Justices cannot by their *Superfedeas* to the Sheriff inhibit him, *Cro.* 122. b. but the King by his writ of *Superfedeas* may discharge it, *ibid.*

A man is bound to appear before a Justice of Peace within forty daies after, in the mean time a general Sessions is kept, he ought to appear before the Justices at the Sessions, *Cro.* 123. a. *nu.* 8.

A Justice commands one on pain of 10 li. by his precept to appear at the next Sessions, and he doth not, no *Scire facias* shall go against him more then upon a *Sub pœna*, but it seemeth he may be attached upon a contempt, *Cro.* 123. a. *nu.* 9.

‘All that come to the Sessions for publick service, or upon compulsion, upon complaint and examination of the matter upon oath shall be freed from any arrest upon Original process, *Lam.* 402. *Cro.* 190. b.

‘Justice of Peace may record a force, if he be disturbed in coming to the Sessions, so that he dare not go to the Sessions, and they shall be convicted by that record, *Cro.* 190. b.

Sewers.

Commission of Sewers being expired, six Justices of Peace, two being of the Quorum, may for one year after execute the laws of Commissioner of Sewers, unless a new be published, 13 *El.* c. 9.

Sheep.

To transport sheep beyond the seas without licence, or to procure the same, is felony for the second offence, 23 H. 8. c. 16. 8 Eliz. c. 3. Lam. 227, 425.

Any bringing, sending, or receiving into any bottom any sheep alive out of the Kings dominions, or procuring the same, loseth his goods, is to be imprisoned for a year, and then in open market to lose his left hand, 8 Eliz. c. 3. Lam. 456, 457.

Any keeping at one time above 2000 sheep of all sorts against the purport of the statute, loseth 3 shill. 4 pence for every sheep above 2000. 28 H. 8. c. 13.

Sheriff.

The *Custos Rotulorum*, or eldest of the Quorum in his absence, is to appoint at Michaelmas-Sessions, two Justices of Peace, whereof one of the Quorum, to have the oversight and controlement of the Sheriff, Under-sheriff, their officers and deputies, and of their books and amerciaments in their County Courts: and either of these two Justices, or one Justice of the Peace, may examine the Sheriff or Under-sheriff and plaintiff concerning the taking and entering plaints in their Courts and books against the statute, 11 H. 7. c. 15. Dal. 136. Lam. 201, 295, 600.

The particulars are, Dal. 137. Lam. 431.

1. If any plaints be entered in their books in any mans name, the plaintiff or sufficient Attourney not being in Court.

2. If the Plaintiff find not pledges to pursue his plaint; viz. such as are known in that County.

3. If they enter more plaints then one for one trespass or contract.

4. If they enter more plaints then the plaintiff supposeth he hath cause of action for against the defendant.

If upon examination the Justices finde any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shill. to the King and to the informer for every default, and the Justices must certifie the examination to the Exchequer within a quarter of a year, on pain of 40 shill.

Dal. 137.

The like for Bailiffs of Hundreds in not warning the defendants to appear, *Dalt. ibid.*

Sheriff shall make no estreats to levy their Sheriff's amerciaments untill the two Justices have had a view and oversight of the books, & the said estreats shall be indented betwixt the said Justices and Sheriff, or Under-Sheriff, under their seals; *Dal. ibid.*

The said two Justices or one of them may examine the defaults of collectors of Sheriff's amerciaments, whose finding of default is a sufficient conviction and forfeiture of forty shillings, the examination to be certified into the Exchequer, *Dal. ibid.*

The said Justices upon information of the party grieved, may make like process as in action of trespass against the Sheriff, &c. to appear then to answer the said information or suggestion, *Dalt. 138.*

Sheriff ought to be at the Sessions to return his precept, and keep the prisoners, Lam. 395.

In these cases following the Sheriff, &c. doth forfeit 40 pounds, and treble damages to the party grieved, 23 Hen. 6. c. 10. Lam. 430, 431.

1. Sheriff that letteth his Bailiwicks or any of his hundreds.

2. Or returneth in any panels any Bailiffs, officers, servants, or servants servants.

3. Or refuseth to bail those that are bailable, offering sufficient surety.

4. Or taketh any obligation by colour of his office, but onely to himself, and upon the name of his Office, and upon condition only to appear according to the writ or warrant.

5. Or having taken for an arrest above 20 pence.

6. Or above 4 pence for any obligation, warrant or precept.

7. Or he or any other minister having taken any thing for making any return or pannel.

8. Or above four pence for the copy of a pannel.

9. Bailiff for taking above four pence for making an arrest.

10. Goaler taking above four pence of any committed to his ward upon arrest or attachment.

11. Sheriff or his ministers that shall levy any

any of the Kings debts, without shewing the party the estreats under the Exchequer seal, shall be fined and pay treble damages to the party, 7 H.4.c.3. 42 Ed. 3.c.9. *Lamb.*

12. Sheriff or other his minister arresting, imprisoning, ransoming of, or levying any amerciaments by reason of any Indictments or presentments made in the Sheriffs turn, without process first obtained from the Justices of Peace, or that hath not brought in such indictments and presentments to the Justices of the Peace at the next Sessions, loseth 10 pound, *Lam.* 431. 1 Ed. 4. c. 2.

Sheriff or any other who may make return of any writ, that returneth any Juror, without true addition of the place of his aboad, or within a year next before, or without some addition by which the Juror might be well known, loseth 5 marks to the King, and 2 marks to the party, 27 El.c.7. *Lam.* 432.

Sheriff or goaler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such, is fineable, 4 E. 3. c. 10. *Lam.* 434.

Sheriff, Bailiff, or other officer or person, refusing to pay over to the Churchwardens, &c. the moiety of the forfeitures by the statute of 4 Fac. against uttering of beer or ale to ale-house-keepers unlicensed, forfeiteth double value, 4 Fac. c. 4. *Lam.* 434.

Justice of Peace being chosen Sheriff, his authority of Justice is suspended during his Sheriffwick; but after another is chosen and sworn, his authority as a Justice of Peace

is as it was before without any new oath, except he be left out of the commission, *Dal. 12. Cro. 121. a. nu. 13, 14.*

Shoes.

Making shoes, pantoffles, &c. contrary to the rules prescribed in the stat. loseth 3 shill. 4 pence for every pair of shoes, &c. and the value of them, 1 *Jac. c. 22. Lam. 465.*

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3 shill. 4 pence and the value of them, 1 *Jac. c. 22. Lam. 466. vide Leather.*

Shooting.

- Any under the degree of a Lord of the
- Parliament shooting within any City or
- Town at any fowl or other mark upon any
- Church or dove-coat, or any shooting in
- any place any hail-shot or more pellets than
- one at a time, every time offending forfeiteth
- 10 pound, and imprisonment for three
- months, 2 *Ed. 6. c. 14.*

Vide Arche: y, Cross. bows, Partridges.

Silk, *vide Apparel.*

Sope, *vide Vessels.*

Souldiers.

Souldier serving the King by sea or land, doth willingly give, purloin, or put away any horse or harness wherewith he was set forth, (or being taken from other souldiers was appointed to him,) upon complaint thereof to a Justice of Peace, he shall be committed.

mitted without bail, till he have made satisfaction, unless he have been formerly punished by the General or other, or shew forth in writing under seal the lawful loss thereof, 2 & 3 Ed. 6. c. 1. *Lam.* 194.

Souldiers passing out of the Realm to serve any foreign Prince, not having before their passage taken the oath of allegiance before the officer appointed thereunto, it is felony, 3 Jac. c. 4. *Dal.* 288.

Souldier being a Gentleman, or of a higher degree, or Captain, or other Officer in Camp, passing to serve any foreign Prince, &c. before they be bound to the King with two sureties before the officer appointed not to be reconciled to the Pope, &c. or to consent to any conspiracy against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felony, *ibid.*

Souldier entred upon record, and having taken press-money, and that departeth without licence, it is felony, 7 H. 7. c. 1. 3 H. 8. c. 5. *Dal.* 288. or if they depart without licence after they have served in the Kings wars, 2 Ed. 6. c. 2. *Dal. ibid.* So of marriners and gunners that have taken press-mony to serve the King on the sea, and come not unto, or depart from the Captain without licence, it is felony, 5 Ed. c. 5. *Dal.* 288.

In these cases following, by the statute of 39 El. c. 17. souldiers and mariners do become felons, Dal. 288.

Such which set not themselves to some lawful course of life, but wander up and down idly, not having a lawful testimonial (if they come from beyond sea) from some Justice of Peace near the place of their landing, expressing the place and time of their landing, the place to which they are to pass, and a time limited for their passage, or having such a testimonial, if they shall exceed the time limited.

To forge or counterfeit such testimonial, or to have a forged testimonial, knowing that it is forged.

Or being retained in service after his arraignment, &c. if he depart within the year without licence of his master.

Poor souldier, or mariner, or sea-faring man suffering shipwrack, may have a licence from a Justice of Peace next to his landing, to pass to the place of his repair, and may ask and receive necessary relief in his direct passage, within the time limited to him, 39 El. c. 4. 39 El. c. 17. Dal. 126. Lam. 303. 21 Jac. c. 28.

Every parish is to be taxed to the relief of disabled souldiers, by the greater part of the Justices at their Quarter Sessions next after Easter, so as no parish be above ten pence, nor under two pence weekly to be paid, so as the total sum in any County where

where there shall be above fifty parishes, do not exceed six pence every parish, 43 *Eliz.*

ap. 3.

The said taxation to be assessed within themselves, and in default thereof by the Church-wardens and petty Constables or the greater part of them, in default thereof by the Justices or Justice of Peace dwelling in the same parish, or, if none be there, in the parish next adjoyning, 43 *El. c. 3.*

In default of payment of the same assess, the Church-wardens and petty Constables may levy it by distress and sale, &c. and in their default the aforesaid Justices or Justice of Peace, 43 *El. c. 3.*

The Church-wardens and petty Constables are to pay over their collections to the high Constable ten daies before every Quarter Sessions, and the high Constables at every Quarter Sessions are to pay it over to the Treasurer, *ibid.*

If any of them make default, then the Church-wardens or petty Constables forfeit 20 shillings, and every high Constable 40 shillings, to be levied by the Treasurer by distress and sale for augmentation of the stock, 43 *El. c. 3.*

Treasurer for maimed souldiers must be 20 pound in lands, or fifty pound in goods in the subsidy, and continue but for a year, and within ten daies after Easter Sessions following to give account to his successor; in default thereof or for other misdemeanour in his office, to be fined five pound or above by the more part of the Justices of Peace, 43 *El. ap. 3.*

Souldier

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawful certificate thereof by the general muster-master or receiver of the muster-rolls, Treasurer, or Controller of the Navy under his hand, is to come to the Treasurer of the County where he was prest, or if he were not pressed, then to the Treasurer of the County where he was born or last dwelt three years, if he be able to travel so far, or otherwise to the Treasurer of the County where he landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Justices may according to their discretions grant him a pension during his life, the said pension be not duly revoked or altered, 43 *El.c.3.*

Treasurers are to make payment quarterly of such pensions as shall be granted by the most of the Justices at the Qu. Sessions under their hands, and by them to be fined if they refuse to pay them, 43 *El.c.3.*

Pensions of souldiers and mariners, not having born offices, are not to be above 10 l. under the degree of a Lieutenant 15 l. a Lieutenant 20 l. 43 *El.c.3.* Pensions are revocable or alterable at the discretion of the Justices at the Quarter-Sessions, 43 *El.c.3.*

Treasurer where any maimed souldier or mariner shall arrive upon certificate, though not allowed may give a testimonial of his own allowance, and convenient relief to carry him to the next County, leading him to the place where the general muster-master shall be, and so may the Treasurer of each County, leading him thither, and from thence to the County.

County where he is to have his pension, 43 *El.c.3.*

Treasurer is to enter into a book money received and disbursed, with the parties names and certificate to whom it was paid, 43 *El.c.3.*

Treasurer not allowing a certificate in the Act of 43 *El.c.3.* expressed, must endorse the cause thereof on the certificate, 43 *El.c.3.*

Souldier or mariner counterfeiteth a certificate, or having a pension beggeth, he shall lose his pension, and be adjudged a rogue, 43 *El.c.3.*

Souldier or mariner that cannot be relieved in the County where he was pressed, by reason that the whole taxation is imploied, shall be relieved where he was born or dwelt the last 3 years, at his election, 43 *El.c.3.*

Overplus of the stock for maimed souldiers is to be imploied by the greater part of justices at the Qu. Sessions, to such charitable uses as are set down in the statute for poor, except it be by them reserved for future pensions, 43 *El.c.3.*

Star-chamber.

The experience of the Star-chamber is the best guide and direction for a Justice of R. *Lamb. 175.*

Stolen goods.

After attainder upon evidence by the owner, the stolen goods are to be restored to the owner by writ of restitution awarded by the justices before whom the attainder was, 21 *H.8.c.11. Lam. 586. Da. 306. Cro. 191.a. Vide Restitution of stolen goods.*

Stew-

Stewards of the Sheriffs turn, Lect, or powders, cannot grant surety of the peace, less it be by prescription, but every of them may commit him to ward that shall make affray in their presence whilest they be in execution of their office, which the steward in a Court Baron cannot do, *Lamb. 14. Dal. 10 H. 6. c. 7. Br. Lect 36.*

Stock of the shire.

The parishioners, and in their default the Churchwardens and Constables, are to assess the tax imposed upon the parish by the Justices at Easter Sessions, towards the relief of the prisoners in the Kings Bench, Marshalsea Hospitals, and other losses by fire, &c. In default of them, any Justice of Peace dwelling in that parish, or (if none dwell there) the next Justice may assess the same; and the said Justice of Peace or any other Justice of Peace in that limit, in default of the Churchwardens and Constables, may levy the same by distress and sale of the offenders goods, rendering to the party the overplus, and in default of distress may commit such persons without bail till they pay the same *43 E. 1. c. 2 Dal. 139.*

In all taxations observe these rules, *Dal. ibid.*

1. The most reasonable taxation of lands by the yearly value, not the quantity.
2. He that occupieth lands in his own hands in several parishes, shall be charged in every parish proportionably for his land there.
3. The farmer shall be rated for the land and not the lessor.

4. A man is not to be rated for his farms, for that the occupier of the lands is chargeable for the same.

5. By goods in most cases a man may be rated as well as by lands, but not both by goods and lands.

6. A man shall be charged for goods only in that town where the goods be at the time of assessment: the Constable and major part of the Parishioners, upon warning given in Church, may make such taxations by law, 5, 67 Br. *Quin.* 4. & 8. *Dal.* 140.

The like may be done by the Churchwardens and the greater part of the Parishioners for Church charges, *Dal. ibid.*

If the greater part will not meet, the officers and such as will meet may tax, *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia*, *Dal.* 140. *Vide Taxation.*

Subsidy.

Upon proof before two Just. of Peace that a subsidy-man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices, *Lam.* 336. *Dal.* 141.

Suggestion, *vide Information.*

Summons of the Sessions, *vide Sessions.*

Sunday.

All persons shall diligently and faithfully resort to their Parish Church or Chappel accustomed,

customed, or upon reasonable let to some usual place where Common prayer shall be used, upon every Sunday and other day ordained and used to be kept holy-day, and there to abide orderly and soberly during the time of common-prayer, preaching or other service of God, or lose twelve pence for every offence, to be levied by the Churchwardens there, to the use of the poor, by writ of distress, 1 *El. cap. 2. Dal. 105.* though he be Popish Recusant convict or not convict, *id.*

If any subject do not resort and repair every Sunday to some Church or Chappel, or some usual place appointed for Common-prayer, and there heare divine Service, according to the statute 1 *El. cap. 2.* it shall be lawful for the Justice of Peace of that limit, upon proof by confession of the party, or oath of witness, to call the party before him; and if he or they make not a sufficient excuse, to the satisfaction of the said Just. then to give warrant to the Churchwardens of the said parish under his hand and seal to levy twelve pence by distress to the use of the poor for every default, and for want of distress, to commit the offender to prison; every offender to be called in question within one moneth after the offence, 3 *Jac. c. 4. Lam. 418.*

None punished according to the branch of the statute of 3 *Jac. cap. 4* shall be punished by 1 *El. c. 2.* for the same offence, 3 *Jac. c. 4.*

There shall be no meeting, assemblies or concourse of people for any sports or pastime out of their own parishes on the Lords day nor Bear-baiting, Bull-baiting, Interludes, common plaies, or other unlawful exercises within

within their own parishes, upon forfeiture of
 shillings 4 pence to the use of the poor, up-
 on view of one Justice of Peace, confession of
 the party offending, or oath of one witness, to
 be levied by warrant of the said Justice under
 his hand and seal to the Constable and
 Church-wardens; in default of distress, the
 offender to sit in the stocks three hours. The
 offender to be questioned within one month;
Car. c. 1. Dal. 63.

Carriers, waggoners, wayn-men, drovers,
 shall not travel with horse, wagons, carts, or
 cattle upon Sunday upon pain of twenty shill.
 for every offence. Neither shall any Butcher
 kill or sell any victual upon Sunday, on pain
 of 6 shillings 8 pence, upon view of one Just.
 of Peace, confession of the party or oath of two
 witnesses; the penalty to be levied by the
 Constable or Church-wardens to the use of
 the poor by warrant of any Justice of Peace
 by distress, or by any that will sue for the same
 at the Qu. Sessions in the same County within
 six months, his reward not to be above the
 third part, *1 Car. c. 1. Dal. 134.*

Shewing of Boots on the Sunday, with in-
 tent to sell them, loseth 3 shillings 4 pence,
 and the value of the Boots, *1 Jac. c. 22. Lam.*
466.

Superfedeas.

Superfedeas is sufficient, though it neither
 name the sureties, nor contain the sum
 wherein they are bound; but it is better if it
 do both, *Lam. 96. Dal. 172.*

Superfedeas delivered to the officer, if he
 arge new sureties, the party may refuse; and
 if

if he be committed, he may have his action
Lam. 99. Dal. 172.

Superfedeas out of the Chancery will discharge surety of the P. in the Kings Bench and either of them a precept for the peace awarded by a Justice of Peace; and an attachment lieth against him if he surcease not, and he may be imprisoned and fined for it, *Lam. 99. Dal. 172, 173.*

Superfedeas received by a Justice of Peace out of an higher Court, he should forbear to make any warrant, or if one be made, to send out his *Superfedeas* to the Sheriff, or other officer, to desist to put it in execution, *Lam. 99. Dal. 172.*

Superfedeas out of the Chancery is to be certified at the next Sessions, together with the Recognizance, for the Peace; if the *Superfedeas* do testifie that he hath found surety in the Chancery onely unto a certain day, which day is after those Sessions, if the *Superfedeas* come to his hands after his Recognizance taken *Dal. 173. Lam. 113.* for peradventure the recognizance was broken before the *Superfedeas* purchased.

Superfedeas for the good abearing, *quarrel* it may be granted by a Justice of Peace, *Lam. 123. Dals. affirmeth it, 197.*

A *Superfedeas* made by a Justice of Peace, and returned under his seal, is a sufficient record to prove a recognizance taken for the Peace, and warrant to call the party bound, and if he make default, to record the same, *Lam. 97.*

If a Justice of P. will by a *Superfedeas* discharge a Precept for the Peace awarded by another

another by virtue of his office, and not by *applicavit*, the recognizance would be taken according to the form of the Precept, *Lam. 96. Dal. 172.*

Certiorari to remove a record is in it selfe a *Superfedeas* to the Justices, yet the party may have a *Superfedeas* to the Sheriff that he arrest him not upon the Justices record, *Lam. 515.*

Whether the Justices *ex officio* after a *Certiorari* ought to award their *Superfedeas*, to stay proceeding upon the record, *quare Lam. ibid.*

An *Exigent* awarded against one indicted of trespass before the Justices of Peace, may be stayed by *Superfedeas* out of the Chancery, on surety found there to appear at the day of the Writ, though he be taken upon it, *Lam. 526, 527.*

So by *Superfedeas* granted by two Justices of Peace, one being of the Quorum, testifying that he hath found sureties, *de fine assidendo*, *Lam. ibid.*

Yet *Dal.* and *Cro.* say, by one Justice of P. *Dal. 319. Cro. 234. a.*

If a *Superfedeas* be directed to the Justices of Peace and Sheriff, the Justice to whose hands it shall be delivered, may keep it, and deliver the label to the party, *Dal. 173.*

Superfedeas granted for the Peace, or good behaviour, out of the Chancery or K. Bench, is void, unless it be upon motion in open Court, and upon sureties of five pounds in lands, or ten pounds in goods in subsidy, and unless it appear to the Court that such process of P. or good behaviour is prosecuted against the desirer of such *Superfedeas bona fide* by some grieved in that Court out of

of which the *Superfedeas* is desired, 213.
8. *Dal.* 174.

Whether the party bound, sending *Superfedeas* to the Sessions, be discharged of his appearance there, *quare Da.* 173. *Lam.* 109. the precedents are, that the party appears and prayed allowance, &c.

Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, must execute it, *Dal.* 186.

The Justice that receiveth the Writ, may make the warrant to the Constable or other party indifferent; and if he refuse to furnish sureties, to carry him to prison, *Dal.* 186.

The party attached can be bound onely before him that sent out the Warrant, *Dal.* 186.

The Justice is to execute the *Supplicavit* it directeth, *Dal.* 187.

If the sums be left to discretion, it is safe to take good summes, *Dal.* *ibid.*

After sureties taken, the Just. may make him a *Superfedeas*, *Dal.* 187.

The Justice needs not return the *Supplicavit*, nor make certificate, until a *Certiorari* cometh to him, *Lam.* 109. *Dal.* 190.

Supremacy.

To refuse the oath of supremacy, the offence is *Præmunire*, the second Treason, *Eliz.* cap. 1.

Surety of the P. is the acknowledgement of a recognizance to the King (taken by a competent Judge of record) for the keeping of the Peace, *Dal.* 161. *Lam.* 75.

Ever

Every Justice of Peace may take and command the Peace either as a Judge or a Minister, *Da. ibid.*

Justice of Peace may command surety of the Peace, either of his own discretion, or at the prayer of another.

In what cases a Justice of Peace may command surety of the Peace by his own discretion, Dal. 167.

1. One that maketh an affray upon the Justice himself, or an assault.

2. Such as in his presence make an affray upon another, or offer to strike another.

3. Such as in his hearing shall threaten to kill, beat, or hurt another, or to burn his house.

4. Such as in his presence contend only in words.

5. Such as in his presence go or ride armed offensively, or with unusual number of servants or attendants; and servants and labourers that bear any weapons contrary to the statute of 12 Ric. 2. c. 6.

6. Any person by him suspected to be inclined to break the Peace.

7. If the Constable bring one before him that shall threaten to kill, maim, or beat another.

8. If the Constable bring one who in his presence attempted to break the Peace by drawn weapon striking or assaulting another.

9. Whom the Constable findeth fighting or quarrelling in a house, he may break open the door, and bring them before a Justice of Peace to be bound.

O

10. He

10. He may make his warrant for such have made an affray, and bind them to the peace.

11. If one have received a wound, he may bind the one and the other till the wound be cured, and the malice over.

12. Such as go or ride armed offensive to fairs or markets, or wear or carry daggers or pistols charged.

13. Common Baretors, *Dal.* 163.

14. Rioters.

15. Him that standeth bound to keep the peace, and hath forfeited his recognizance for breach of the peace; but not till he be convicted, and the forfeiture levied, *Dal.* 163. *T. Cro.* 141. saith, that he may be bound anew if he be only convicted for breaking the peace.

16. Him that standeth bound, if his surety be insufficient.

Justice of Peace is to send to prison him that refuseth to give sureties, until he find sureties, *Dal.* 163. *Cro.* 138. b. *nn.* 8.

Justice of Peace may cause one to be arrested to finde surety of the peace against another, and grant a warrant for it, for he might have bound him of his own authority, *Dal.* 163.

Justice of Peace may perswade a man to require surety of the peace against another, and grant a Warrant for it: for he might have bound him of his own authority, *Lam.* 78. *Dal.* 162, 336.

At the request of another he may command surety of the peace, but must first take an oath of the party that demandeth the peace, that

standeth in fear of his life, or of some bodily hurt, or to have his house burnt, *Lam. Dal. 163.*

Sureties in a recognizance ought to be two, and registred in Subsidy: for though some may be sufficient which were not assessed, yet it standeth not well together, that he should be bound to the King in 10 li. or 20 li. that in Subsidy was not found worthy thing, *Dal. 175.*

Justices of Peace in Sessions may examine sureties upon oath of their sufficiency, *Dal. 175.*

Cases to require surety of the Peace.

1. He that is threatned to be hurt in body, to be beaten, wounded, maimed, or killed, *Dal. 164.*

2. He that feareth another will beat, wound, maim, or kill him, *Dal. ibid.*

3. He that feareth another will burn his house, *Dal. ibid.*

4. He that feareth that *A.* will procure another to hurt him in his body, or burn his house, *Dal. 164.*

5. If a man lie in wait to beat, kill, or hurt another, *Dal. ibid.*

Quere, if he threaten to burn his goods.

What cases a man shall not have the Peace granted.

1. To threaten one to imprison him, *Dal. 1. Lim. 82. Cro. 135. a. Quere tamen. Br. 22.*

2. Where one is in fear that a man will hurt his

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his servant, cattel, or other goods, *Dal.* 164. *Cro.* 138. a. *Lam.* 83. but he may have a writ out of the Chancery. *Dal.* seemeth to be the other opinion, 164.

3. Because he is at variance with his neighbour, *Dal.* 164. *Lam.* 83.

4. Where there is no fear of present or future danger, *Dal.* 164. *Lam.* 84.

5. For a battery past: yet a Justice, if the cause, may bind over the affrayers, *D.* 165. *Pax Regis* 14.

Justice of Peace may deny to grant surety of the peace, if it be upon meer vexation; yet if the party will take his oath, it is safe to deny it, *D.* 165. yet afterwards perceiving it to be of malice, and for vexation, he may bind the party so requiring it to his good behaviour.

Against whom surety of the Peace may be granted.

Against a Knight, or any person under the degree of a Baron, *Dal.* 166.

Against Sheriff, Coroner, Escheator, or other officer of Justice. But it is not good to bind them *versus cunctum populum*, *D.* 166. *Lam.* 80, 81.

Against any Ecclesiastical person neglecting divine Service in the Church or Churchyard, or other place dedicated to God, *D.* 166. 50 *Ed.* 3. c. 5. 1 *R.* 2. c. 15.

One Justice of Peace may grant the surety of the peace against his fellow Justices, then sitting in Sessions, *Cro.* 134. b. *Dal.* 166. *Lam.* 80.

One Justice of Peace may demand the peace against another man, *Lam. 81. Dal.*

The wife may demand the peace against her husband, if he threaten to kill her, or tragically beat her, or she have notorious cause to fear it; and the husband may crave the peace against his wife, *Dal. 167. Lam. 78.*

The peace may be granted to a feme covert, or an infant under the age of 14 years, if he have discretion to crave the peace, but they must be bound by sureties, and an infant under that age may demand it, *Dal. 167. La. 79.*

A Lunatick may crave the peace, and have it granted him, *Dal. 167. Lam. 79.*

It may be granted against one attainted either of treason or of felony, or convict of heresie, *Dal. 168.* and they may demand it, *Lam. 79.*

It may be had against an excommunicate person, *Dal. 168.* and an abjured person, *ibid.*

It may be had against one attainted in *Præsumptio*, and against an alien, either made denizen or living in England, *Dal. ibid.*

It may be had against one dumb and blind, or against an impotent person, *Dal. 168.*

Against whom the Peace cannot be granted.

1. It cannot be granted against any Noble-man, or Noble-woman, *Dal. 165.*

2. Against one *non sana memoria*, unless he have *lucida intervalla*, *Dal. 167. Lam. 79.*

3. Against one born dumb and deaf; but

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if he become dumb and deaf, or made blind and deaf accidentally, he may have understanding, and the Peace may be granted him or against him, *Dal.* 168.

How the surety of the Peace is to be commanded and executed.

A Justice of Peace may } word,
command the Peace by } writing.

By word.

The party being present in the presence of the Justice of Peace, threatneth another, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace, *Dal.* 169. *Cro.* 138. b. *in. 8.* *Lam.* 84, 85.

One demandeth the surety of the Peace being present, and taketh his oath he is assuaged, &c. the Justice may command the other to find surety, *Dal.* 169. *Cro.* 138. *Lam.* *ibid.*

The Justice in such cases may command the Constable or other known officer, or his own servant being present, to arrest such party to find surety of the Peace, and may commit to the Goal such party refusing to find surety, *Dal.* *Cro.* *Lam.* *ibid.*

By writing.

The Justice by precept or warrant in writing under his seal directed to some known officer, or other indifferent person, containing the cause and at whose suit, to the end the parties may provide the sureties, and take them with them, *Lam.* 87. *Dal.* 170.

The Justice may make his warrant to bring the

the party before him, but the usual manner is to bring the party before the same Justice, or some of the Justices of the County, *Dal.* 170.

Who may serve the Warrant, vide Warrant.

The Constable is first to acquaint the party with the matter in the Warrant; and if he refuse to go before the Justice to finde sureties, he may arrest him and carry him to the Goal, without carrying him to the Justice, *Lam.* 90. *Dal.* 170. *Br. Faux Impris.* 18.

If the party yield to find surety, the officer is not bound to go up and down with him, but may keep him until he can procure sureties to come to him; if afterward he make resistance, or offer to go away, he may by his warrant carry him to the Goal, and set him in the stocks till he can get aid to convey him to the Goal, *Dal.* 170. *Lam.* 92.

The arrest is not justifiable except the Officer do carry him to the Goal that refuseth to finde sureties, *Cro.* 171. b. *Dal.* 171.

The party may go before any other Justice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travel out of the division where they dwell. Nay it is at the election of the officer to carry the party to any other Justice, rather than to give the election to the delinquent, *Dal.* 171. *Lam.* 94.

The party coming before the Justice is to offer his sureties, or else the Justice is to commit him, for the Justice needeth not to demand them, *Dal.* 171.

If the party refuse before the Justice of Peace to finde sureties, the Officer by the first

Warrant may commit him, *Dal.* 171. *Lam.* 92.

The Officer is fineable if he arrest the party, and do not carry him before a Justice of Peace, if he be willing to finde sureties; secondly, if upon refusal they arrest him, and do not carry him to the Goal, *Dal.* 171.

The party being imprisoned, the Justice of Peace may make him his *Liberate*; first, if the complainant die; secondly, if he do enter surety of the Peace, *Dal.* 171.

If the imprisoned have a suit depending in the common Pleas, by some opinions, the imprisoned may be discharged by a Writ of privilege. *Quare tamen*, *Dal.* 171. *Lam.* 94. *Cro.* 138. a. nu. 4.

A sworn & known officer needeth not to shew his Warrant, but the servant of the Justice must shew it if it be required, *Lam.* 89. *Dal.* 340.

If Husband and Wife be bound to appear, and in the mean time to keep the Peace, and the Husband onely appeareth, the recognizance is not forfeited, *Dal.* 179. *Quare* *Cro.* 144. b.

Suspicion and suspects of felony.

A suspect of felony ought not to be arrested by a Warrant from a Justice of Peace, unless he be indicted before: for if the Bailiff which serveth the Warrant doth suspect him, he may do it of himself without a Warrant; and without suspicion the Justices Warrant is no Warrant, *Lam.* 188. *Dal.* 339. *Cro.* 147. b. 148. b. 197. 2. nu. 21. *Quare* *Dal.* 339. *Br. Faux Imprisi.* 8.

Suspicion only without felony committed, is

is no cause to arrest another, *Cra. 154. a nu. 28. Dal. 331. Brook ibid. 1, 4.*

A felony being committed, every man may arrest suspicious persons that be of evil fame, &c. and if such person make resistance, the other may justifie to beat him, *Dal. 345.*

The Constable or other person that arresteth one for felony or suspicion, must himself suspect, *Dal. 311, 345. Cro. 99. b. nu. 43.*

In an arrest for suspicion of felony, the party that causeth the arrest must suspect him, and also shew some cause of suspicion: otherwise every man may arrest another for felony done, *Cro. 99. b. nu. 44. Dal. 311, 312. where he maketh a quarrel.*

Swans.

Taking away from his own or another mans grounds Swans eggs of another mans, upon conviction and examination of witnesses is imprisonment for a year and day, and loss of ten pound, *Lam. 446.*

To steal Swans unmarked, if they be domestic, and kept in a mans manour or private rivers, is felony, *Dal. 267.*

Swearing.

He that sweareth or curseth, being convicted by hearing of any Justice of the Peace, or by oath of two witnesses, or confession of the party before a Justice of Peace, loseth 12 pence to the poor, where the offence shall be committed, to be levied by distress, the offence being proved within twenty daies; or for default of a distress to be set in the stocks three hours, 21 *Jas. c. 20. & 3 Car. c. 4.*

‘The Warrant for distress is to be made to the Constable, Churchwardens, and Overseers of that parish where the offence is committed, 21 *Fac. c. 20.*

The offender being under twelve years of age, and not forthwith paying his twelve pence, by warrant of a Justice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence, *ibid.*

Taxations *vide* Stock of the shire.

TAXATIONS made for a Common-wealth, as making or mending of bridges, highwaies, causeys, sea-banks, &c. shall be upon all persons though they assent not, *Dal. 141. Coke 5, 83. Br. Customs 8.*

‘A town is amerced, and by assent of neighbours, every inhabitant is assessed, and they appoint I. S. to collect it, and, for non-payment such a day, to distress: such a distress taken by I. S. for rates is good, *Dal. 141. Brook Customs 6. Coke 5, 83. Daffor & Student 74. b.*

Tale-bearers, *vide* News.

Tanners, *vide* Leather.

Tavern-keeper.

Assignment of such as shall keep a Tavern to utter wine, is to be made at the general Sessions, unless it be otherwise by especial grant, 7 *Ed. 6. c. 5. Lamb. 614.*

Testimonial.

Testimonial.

Testimonial under the hand of one Justice of Peace sealed, is sufficient to pass in hay-time and harvest time from one County to another, *Lam. 190.*

In all testimonials and passports some assured marks of the party, by which he may infallibly be distinguished and known from others, are fit to be specified, *Lam. 206.*

Testimonial for a serving-man turned from his masters service, or whose master is dead, ought to be made by two Justices of Peace, *27 E. c. 11. Lam. 331. Dal. 127.* maketh a *Quere.*

None retained in husbandry is to depart without Testimonial at the end of his term, *5 E. c. 4. Vide Servants.*

Theft.

Theft is a fraudulent and felonious taking of another mans personal goods, in the absence of the owner, and without his knowledge, *Lam. 272. Dal. 262.*

Theft is either Grand-larceny, or Petty larceny.

Grand-larceny is when goods stolen are above 12 pence, and it is felony of death, except the party be saved by his book, *Dal. 263.*

Yet if the goods be of more value, and the Jury find it did not exceed 12 pence, it is not Grand-larceny, *Dal. ibid.*

Petty larceny is if the goods do not exceed 12 pence, and is not felony of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the

The Justices before whom the party is arraigned, *Dal. ibid.*

For petty-larceny, the Justice of Peace before whom the offender shall be brought is not to punish him, but either to send him to the house of correction, or to bail him, *Dal. ibid.*

Petty-larceny is forfeiture of goods and chattels.

Six pence, four pence, and three pence, being taken by one at several times from one and the same person, may be put together in one indictment, *Dal. 263 Lam. 273 Stam. 24.*

If two or more steal above 12 pence from one, it is felony of death in every one, *Dal. ibid. Lam. 273.*

The manner,

To make an act larceny, there must be first a taking, secondly, a carrying away, *Lam. 277. Dal. 263.*

Yet it may be felony though the offender came to it by the delivery of the owner, *Lam. 278.*

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony, *Dal. 264. Lam. 278. Cro. 35. b. nu. 4.*

A Carrier carrieth goods to him delivered to the place appointed; and there breaketh them up, and embezelleth them; it is felony, *Dal. 264. Cro. 35. a. nu. 13. Lamb. 279.*

A carrier taketh out parcels of the goods to him delivered; it is felony, *Dal. 264. Cro. 36. a. nu. 11.*

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his own use; it is felony, *Dal. 264. Lam. 278.*

Where

Where, after delivery, the imbezelling is no felony.

A Carrier imbezelling the whole, *Lam.* 278.
Cr. 36.

A stranger borroweth a horse, and ri-
leth away.

A Clothier delivereth his wool to his
work-folk.

One delivereth his goods to another to
keep.

One delivereth money, to A. to pay B.

*Felony in servants by force of the
statute 5 El. c. 10.*

Servant of the age of 18 years (other than
an apprentice) to whom any money, goods,
or chattels, &c. by his master or mistress shall
be delivered to keep, of the value of 40 shill.
or above; if he go away with, or convert the
same to his own use, with intent to steal the
same, or to defraud his master or mistress, it
is felony, if it be prosecuted within a year,
Lam. 279. *Dal.* 265,

Wherein are divers cases.

A man receiveth of his master 20 pound
in gold to keep, which he changeth into sil-
ver, and runneth away with it, they are both
of one nature, therefore felony, *Dal.* 265.
Lam. 280. *Cr.* 35. b. *nu.* 6.

One servant delivereth to his fellow ser-
vant to the value of 40 shillings of his masters
goods, and he goeth away with it, or conver-
teth

reth it to his own use ; it is felony, *Dal. 266. Cro. 50. a. Lam. 280.*

A servant maketh a garment of his masters cloath, and goeth away therewith; it is felony, *Dal. 265. Cro. 50. a.*

Quare of barley converted into malt, or mony melted into a piece of metal, *Dal. 266.*

An obligation is delivered unto a servant and he goeth away with the mony received upon the same obligation ; it is no felony within the statute of 5 *El. c. 10.* for the master delivered not the mony, *Dal. 265. Cro. 35. b. nu. 5. 50. a.*

The servant carrieth his masters wares to market, selleth them, and goeth away with the mony, or converteth it to his own use ; it is not felony within the statute of 5 *El. c. 10. Dal. 266. Cro. 50. a. Lam. 280.*

A Receiver receiveth rents, and goeth away with them; it is no felony, for the statute is, where the master delivereth to keep, *Dal. 266. Cro. 50. a.*

I deliver to my servant an horse to ride to market, or mony to buy things or pay another, and he goeth away with it ; it is no felony at the Common law, for it was of his masters delivery, *Dal. 266. Cro. 35. b. nu. 1.*

Quare if it be not felony by 5 *El. c. 10.*

My shepherd selleth my sheep falsely, it is felony *Cro. 35. b. nu. 9.* but *Stamf. 25. a. e contra.*

A servant keepeth the key of his masters chamber-door, and taketh away above the value of 12 pence ; it is felony at the Common law, for they were not delivered him, *Dal. 266. Lam. 279.*

A guest taketh the sheets or other goods of the host feloniously into some other room of the house, it is felony, *Dal. 266. Cro. 35. a. m.*
2. Lamb. 281. Br. Coron. 107.

A man feloniously taketh an horse, and is apprehended before he gets out of the close where he went, *Lamb. 281. Dal. 267. Cro. 36. a. m. 12.*

*Not enquirable before Justices
of Peace.*

A servant taketh away or spoileth his deceased masters goods; in default of appearance in the Kings Bench after proclamation, it is felony, *Dal. 266. Cro. 56. a. 6. 33 H. 6. c. 1.*

*Of what things felony may
be committed.*

Of moveable goods, as money, plate, apparel, household-stuff, &c. so of corn, hay, trees, fruit, &c. being severed from the ground, *Dal. 267. Lam. 173.*

Of domestical things, as horses, mares, colts, oxen, kine, sheep, lambs, swine, pigs, hens, geese, ducks, turkeys, or any other domestical beasts or birds of tame nature: and though they run or away fly out of the owners sight, the detainer is punishable by action, *Dal. 267.*

Of wild nature, young pigeons out of another mans dove-house, young hawks or herons breeding in parks or several grounds, fishes kept in a trunk or pond, *Cro. 36. b. m. 22. Lamb. 274. Dal. 267. Stam. 25. saith gos-hawks.*

Quare of old doves in a dove-house, *Lam.* 274.

So swans marked, and at large, and tame deer marked and domestical, if the taker know it to be tame, *Dal.* 267. *Lam.* 275. *Cro.* 36. b. *nu.* 23.

By statute it is felony, to hunt deer or conies after some sort in park, forrest, or warren, or to take a tame beast or other thing in a park by manner of robbery, *Vide* 3 E.1.c. 20.1 H.7.c.7. *Lam.* 275. *Dal.* 268.

So to take away or conceal a hawk, *ib.*

To steal the flesh of tame or wild fowl dead, is felony, *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull wooll off the sheeps backs, or to kill them for their skins, *Dal.* 269. *Cro.* 36. a. *nu.* 17. *Lam.* *ibid.*

A man may commit felony in taking his own goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue, *Dal.* 270. *Cro.* 37. b. *nu.* 42. b. *Stam.* 26. a. *Lamb.* 277. *Br. Cor.* 142. *quare.*

I lend or deliver my plate or goods to another, who melteth my plate, or changeth the fashion of my goods, to take them feloniously is felony in me, *Dal.* 270. *Cro.* 37. a. *nu.* 34. *Lam.* 277.

If a man pursue or take a felon that hath stolen his goods, taketh them and suffereth the thief to escape, he is no accessory: for he may *agere civiliter aut criminaliter in iure*, *Lam.* 290. *Terms of Law*, *Tit.* theft-booc, *Cro.* 37. a. 45. b. 42. b. *P.R.* 131. *Dal.* 296.

If the party robbed take money, &c. of the thief,

thief, to the end that he shall not give evidence against him, whereby the thief escapeth, he is accessory to felony of his own goods, *Lam. 290. Dal. 295. Cro. 41. nu. 5.*

Quere, if a man having made complaint to Justice of Peace, take his stolen goods again, and doth not prosecute the matter, whether it make him not accessory, for that he did *proce agere criminaliter. Dal. 296.*

Of what things felony is not committed.

Things which are real chattels, *Lam. 275, 276. Dal. 270.*

To cut down any tree or corn, or pull any apples, or carry them away, *Dal. 270. Lam. 276.* Being cut and gathered for one, and then for another to carry them away, it is felony: or if a stranger cut at one time, and carry away at another time, it is felony, *Dal. 270. Cro. 36. b. nu. 26. Lam. 276.*

Lead upon an house or Church is part of the freehold, *Dal. 270. Cro. 37. a. nu. 33.*

Evidence of a mans land, indenture of lease, or other writings in box or out of box, cannot be valued, *Lam. 275. Dal. 270.*

To take away an infant in ward, is no felony, *Dal. 270. Lam. 276.*

Treasure trove or hidden, wreck of the sea, goods waived or straid; for the owner is unknown, *Lamb. 276. Br. Cro. 96. Dals. 270.*

But felony may be committed by taking *bona ignoti*, or *mortui & ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation in time of vacation, *Lam. 276, 277. Dal. 270.*

What

What persons are chargeable in larceny.

A woman covert by her selfe, her husband not knowing thereof, committeth larceny a principal, if she steal another mans goods; or as accessary, if she receiveth the thief that stole them, or receiveth the stolen goods into her house knowing them to be so, or locketh them up; and the husband knowing thereof the law will impute the fault to him, not to her: but if the husband so soon as he knoweth it, forsake his house and her company, and remain elsewhere, he shall not be charged for her offence, *Sta. 26. P.R. 130. Lam. 282 Dal. 271.*

The husband delivereth goods to a stranger, the wife stealeth them from the stranger it is felony in the wife, *Dal. 271.*

A stranger goeth away with another mans wife, and against her will carrieth away her husbands goods; it is felony in the stranger, *Cro. 35. a. nu. 2, P.R. 130. Dal. 271.*

A servant stealeth by the compulsion of his master, it is felony in both, *Cro. 37. a. nu. 37 Dal. 273.*

Who are not felons.

A wife stealeth by the compulsion of her husband, it is no felony in her, *Cro. 36. b. nu. 27. & 37. a. nu. 36. Lam. 282. Dal. 271.* but to do murder by her husbands compulsion, is felony in both, *Dal. ibid. Cro. 37. a. nu. 38.*

A wife stealeth by commandement of her husband without constraint, *quare, Dal. 271. Stam. 26. P.R. 130. Lam. 281.*

The husband and wife together steal goods, it is felony in the husband only, *Dal.* 271. *Stam.* 26. *Lam.* 282.

A wife stealeth goods delivered to her husband, it is no felony, *Dalt.* 272. *Cro.* 37. a. nu. 35.

The wife stealeth her husbands goods, and delivereth them to strangers, it is felony in neither, *Dal.* 272. *Stam.* 27. *Lam.* 282. *Cro.* 35. a. nu. 2.

The wife receiveth the husband being felon, and relieveth him, she is no accessory, *Cro.* 42 b. nu. 22. *Dal.* 272. *Stam.* 26. f.

An ideot, lunatick, dumb and deaf person, and an infant, are chargeable in larceny after the same sort as they are chargeable in homicide, *Lamb.* 282. *Dal.* 273, 295. *Vide Man.* slaughter.

Threatning.

He that shall be threatned to be hurt in his body, to be beaten, wounded, maimed, killed, may crave and have the peace against the other, *Dal.* 164. *Lamb.* 82.

If a man be threatned to have his goods burned, *quare* if he may have the peace, *Dal.* 164. *Lam.* 82.

To threaten to imprison a man is no cause of the craving of the peace; for the wronged may have his action of false imprisonment, or his Writ *de homine replegando*, *Dal.* 164, *Lam.* 82, 83. *Quare.*

To enter peaceably into an house, &c. and put out B. and presently threaten and say to B. that if he do come thither again to enter, he will kill him; this seemeth a forcible entry: and if B. come again to make his entry, then

then if the other shall threaten to kill him, if he entreth, it is a forcible detainer, *Dal. 202. Cro. 70. b. nu. 39.*

Tile-making.

One Justice of Peace may enquire, hear, and determine by his discretion, as well by examination of the offender, as otherwise, the offence committed in tile-making, and assess the fine therein limited, and may appoint men skilful to be searchers. *Quere tamen* whether one may do it alone, *Lam. 193, 194. Dal. 144. 17 E. 4. c. 4.*

Earth for tile is to be digged before the first of November, and to be turned and stirred before the first of February following, and to be tried from stones, veins and chalk, and not to be wrought before March following, or lose double the value to the buyer, *17 E. 4. c. 4. Lamb. 468.*

Plain tile put to sale, is to be ten inches and an half long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shill. a hundred, *17 E. 4. c. 4. Lam. 468.*

Roof-tile must be 13 inches long, half inch and half-quarter of an inch thick, conveniently deep, or lose 6 shill. 8 pence an hundred, *ibid.*

Gutter-tile must be 10 inches and an half long, of convenient breadth, depth and thickness, or lose two shill. an hundred, *ibid.*

Searchers of tile, for every default in searching, lose 10 shill. *ibid.*

Tipling.

The Inn-keeper, Victualler, or Alehouse-keeper,

keeper, that suffereth any to continue tipling in his house shall forfeit 10 shill. to be levied by distress, by warrant from one Justice of Peace, and to be sold, after 6 daies; for want of distress to be sent to the gaol till payment be made, 1 *Fac.c.9.* 7 *Fac.c.10.* 1 *Car.c.4.* *Lam.192.*

The Oath of Constables, Churchwardens, Headboroughs, Tithingmen, and Aleconners, are to be enlarged, and extend to present all offences against the statutes of 1 *Fac.c.9.* & 4 *Fac.c.5.* 21 *Fac.c.7.*

Any continuing tipling in an Inne, Victualling-house, or Alehouse, shall forfeit 3 shill. 4 pence to the poor, or not being able to pay the same, shall sit in the stocks four hours, 1 *Jac.c.9.* 7 *Jac.c.10.* 21 *Jac.c.7.* *Vide Alehouses, 4 Jac.c.5.*

Tithes.

Two Justices of Peace, one being of the Quorum, upon complaint by any competent Judge of tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to be attached and committed to ward, till he finde surety by recognizance to obey the sentence and process of the Judge, 27 *H.8.c.7.* 27 *Elix.c.11.* *Lam.357 Dal.141.*

Upon complaint in writing by an Ecclesiasticall Judge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged, two such Justices of P. may cause the party to be attached and imprisoned, till he finde surety to perform the sentence, 32 *H.8.c.7.* *Dal.144.* *Lam.357.* *Cro.197.2.nu.22.*

Toll.

Miller taking Toll by heaped measure, is to be fined 31 *Ed. 1. de pistoribus, Lam. 461.*

Miller taking excessive Toll, *viz.* more than the twentieth or twenty fourth part of the Corn according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise then by strike, shall be grievously amerced, 51 *H. 3. c. 3 Cro. 92. a.*

A Miller shall have Toll of a bushel of hard Corn three wine pints, and of a bushel of Malt but one pint, if the Corn be brought to the Mill; for that a Mill will grinde three bushels of Malt as soon as one bushel of hard Corn, *Cro. 92. a. Quere,* for 51 *H. 3. c. 3.* doth not expresse so much. *Vide Dal. 151.*

Toll-gatherer for horses taking above a peny for one contract or entring the parties names, and that in the same place only where the market or fair is, and between ten of the clock in the morning and Sun-setting, loseth ten shill. and is to answer the party grieved, 2 *Q. 3 P. & M. c. 4. Lam. 471, 472.*

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one creditable witness that will testifie he knoweth the sellers name, mystery, and dwelling-place, and there to enter them with the true price of the horse, or loseth 5 l. 31 *Eliz. c. 12. Cro. 91. a. Lam. 472.*

Any giving testimony to the Toll-taker, unless he do truly know the same, loseth five pound, *ibid.*

A thief selleth a stolen horse by a false name, and is so entred into the Toll-book, such misnaming maketh the sale void, *Dal. 74.*

Toll-taker

Toll-taker refusing to give to the buyer or
aker of such an horse, &c. a true note in wri-
ing of his entry, the party paying two pence
or the same, loseth 5 l. 31 *El.c.* 12.

Transportation.

Every man may transport corn, it being at
he prices following, except it be forbidden
y proclamation, *Mac.c.* 25. 21 *Mac.c.* 28. 3 *Car.*

4.	Wheat,	} } a quarter	26 shil. 8 pence.
	Rie and		
	Pease,		15 shill.
	Barley and		
	Oats,	} }	14 shill.

Every subject born within the Realm, when
he prices of corn at the times, places, and
havens when & where the said-corn shall be
ought, shipped or laden, exceed not the rates
following, may carry and transport of his
own, and buy to sell again in markets, or out
of markets, and to keep, or sell, or carry, or
transport any of the said corn from the places
where they shall be of such prices, unto any
parts beyond the seas in amity with his Ma-
esty, in English vessels, or carry or sell in o-
ther places within the Realm, except where
such transportation shall be forbidden by the
Kings Proclamation, 3 *Car.c.* 4.

Wheat,	} } a quarter	32 shill.
Rie,		
Pease and		20 shill.
Beans,		
Barley,	} }	16 shill.

Every man may transport any beer, when
the price of a quarter of Malt exceedeth not
16 shillings. Traverse.

Traverse is the denying of the chief matter in an indictment, *Lam.* 540.

Traverse upon a forcible entry or detainment found upon presentment, *quare* before whom the traverse is to be made or tendred; *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of a force, the Justice of Peace may make the restitution by the statute of 8 H. 6 or else deliver or certify the presentment to the Kings Bench, *Lam.* 158. *Dal.* 60.

Traverse lyeth where one Just. of P. alone will take upon him to record a Riot that he seeth, and the party shall not be concluded thereby, *Lam.* 182.

Traverse of an indictment of felony or treason is not usual, *Lam.* 541.

Traverse of an indictment may be before the Justices of Peace, *Lamb.* 542. If the Court where the presentment is found cannot award process thereof, it cannot receive a traverse of the presentment, as a leet of bloodshed, *Lam.* 542.

That Court that may award process *ad respondendum* upon an indictment, may take traverse of it, *Lam.* 543.

Presentment of bloodshed found in the Sheriffs turn, and sent to the Justices of Peace cannot be traversed before them, *Lam.* 542.

One of the Enquests presents himself, it is not traversable, *Lam.* 543.

‘Where process *ad respondendum* goeth out upon an indictment that is traversable, the party may offer and have his traverse, *Lam.* 542, 543.

‘*Quare* whether a man be admitted to traverse

‘ver

verse a presentment except it change him
in the freehold, *Lam. 543.*

Travelling beyond the Seas.

Officer of Ports, or owner of a Vessel, suf-
fering any woman or child under 21 years of
age, except Sailers ship-boies, apprentices or
Factors of Merchants in their trades, to go,
or carrying any of them beyond sea, without
licence of the King or six of the Privy Coun-
cil under their hands, such Officer of the
Ports forfeiteth his office and all his goods,
and the master of the Vessel his Vessel, and
imprisonment without bail for 12 months,
and loseth also all his goods, 3 *Jac. c. 4.*

Any subject going beyond the seas to serve
any foreign State, not taking the oath of al-
legiance before the Controller or Customer
of the Port, or either of their deputy or depu-
ties, before his going, shall be a felon: the
oath by them to be registred and certified in-
to the Exchequer once every year, or lose 5 l.
for every oath not certified, 3 *Jac. c. 4.*

Any Gentleman, or of an higher degree, or
Captain, or other officer in the army, before
going beyond sea to serve any foreign
Prince or State, must be bound by the Con-
troller or the Customer of the Port, with two
sureties allowed by the Officer, unto the King
10 pound, with condition not to be recon-
ciled to the Pope, nor to practise any thing
against the King, but knowing any thing to
reveal it: the same bond to be by them regi-
stred and certified into the Exchequer once
every year, or lose 5 pound for every default
Jac. c. 4.

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without licence of the King or six of the Privy Councel, (whereof the principal Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods, or chattels, untill he or they being 18 years old or above, take the oath of Allegiance before one Just. of Peace of the County where the parents dwelt or dwell: & in the mean time the next of kin, being no Popish Recusant, to enjoy them till he shall conform to take the said oath of Allegiance, and receive the Sacrament of the Lords Supper, and then to account to him for the mean profits, and in reasonable time to make payment thereof. And the senders lose 100 pound, one third part to the King, another to the suer, another to the poor, 3 Jac. c. 5.

Vide Transportation.

Traveller.

Inne-keeper or Alehouse-keeper refusing to lodge a traveller, Justice of Peace, or Constable may compel him. *Quare* how, viz. to present the offence at the Assizes or Sessions. Dal. 28. Br. Action sur le case 76.

Sr James Lee delivered that the Inn-keeper or Alehouse-keeper may for the same be indicted, fined, and imprisoned, or the party grieved might have his action. Dal. 28.

Treason.

Treason is a grievous offence done or committed against the King in his person, the

Queen

Queen his wife, his Children, Realm, or authority, *Dal. 227.*

As,

To compass the death of the King, Queen his wife, or of their eldest son and heir; or to intend any of their deaths, though it be not effected, *Dalt. 227.*

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sons wife, *Dal. 228.*

To levy war against the King in his realm, *Dal. ibid. Br. Treason 24.*

To conspire to levy war against the King, *Dal. ibid.*

To conspire with a Governour of another country to invade the Realm, *Dal. ibid.*

To kill one that is sent on the Kings message, *Dal. ibid.*

To encounter in fight, and kill such as be assisting to the King in his wars, or come to help the King, *Dal. ibid.*

To aid the Kings enemies in his Realm, *Dal. 228.*

To counterfeit the Kings great Seal, Sign. Manuel, Privy. signet, or Privy Seal, *Dalt. 229.*

To take an old seal and put it to a new patent, *quærs* whether treason or misprison, *Dal. ib. Sta. 3. C. Br. Treas. 3.* And so of those that without authority set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seal, and so get it sealed, *Dal. ibid.*

To counterfeit the Kings coin, or any coin current within the Realm, *Dal. 229.*

To bring in any false mony, knowing it to

be false, Dal. 229. 1 & 2 P. & M. cap. 3.

• To clip, wash, and lighten or falsify any
• coin current within the Realm, Dal. *ibid.*

• To coin money not having authority, Dal.
ibid.

If he which hath the Kings warrant to coin,
do coin money in England, Ireland, or else-
where less in weight then the ordinance, or
coineth false metal, Dal. 229. Br. Treas. 19.

*All counsellors, procurers, consenters, or aiders
of any the forenamed Treasons, are within the pur-
view of the Statute, 25 Ed. 3. for in treasons all
offenders are principal; Dal. 230.*

• Counterfeiting gold or silver not the pro-
• per coin of this Realm, is misprision of trea-
• son 14 EL. c. 3.

To kill the Kings Chancellour, Treasurer,
Justice in Eyre of Assize of Oyer and Terminer,
being in his place, and doing his office, is high
treason, Dal. 237.

To extol the authority of the Bishop of
Rome within any of the Kings dominions,
and the procurers, counsellors, aiders and
maintainers thereof, the first offence is *Pro-
murder*, the second Treason, 1 EL. 1. 5 EL. 1.
Lam. 411. Dal. 231.

• So to bring over any books that shall
maintain or set forth or defend such authority,
and the readers and hearers that shall justify
them, Dal. 231.

• So deliverers of such books to others, with
allowance and liking of the same, Dal. *ibid.*

So the printers and utterers of such books
be all within the meaning of the statute,
5 EL. c. 11. Dal. *ibid.*

• Refusing the oath of Supremacy, the first
offence

offence is *Præmunire*, the second offence
Treason, 5 *El. c. 11. Dal. 205. Lam. 410.*

To obtain from Rome, or by any authority from thence, any Bull or writing to absolve and reconcile such as will forsake their obedience to the King, and yield it to the Pope, or give or take absolution by colour of such Bull, or publish or put in ure such Bull, 13 *El. c. 2. Dal. 231. Lam. 226.*

To absolve, perswade, or withdraw any subject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsel, or aid them that do it, is treason, 23 *El. c. 1. 3 Jac. c. 4. Lam. 220, 226, 412. Dal. 232.*

To be willingly absolved, perswaded, withdrawn, or reconciled to promise such obedience, or to procure, counsel, aid and maintain the same, is treason, except within six daies after their return into the Realm they submit according to the statute, 3 *Jac. c. 4. Dal. ibid.*

For Jesuit, Priest, or other Ecclesiastical person, (made by the authority from the Pope) to come into, or remain in any of the Kings dominions, contrary to the statute 27 *El. c. 2.* is Treason.

To compass the death of an usurper of the Crown, is Treason, for which the offender may be arraigned in another Kingstime, *Br. Treason 10. Dal. 227.*

To intend to deprive, depose, or disinherit the King, or say he will be King after the King dieth, *Dal. 227.*

To set at large unlawfully any committed for Treason, is Treason by the Common law, *Dal.* 229.

One imprisoned for felony breaketh prison, whereby a traitor escapeth; it is Treason in him by the Common law, *Dal.* 229. *Cra.* 35. 2. *nu.* 5.

Voluntarily to suffer one to escape that is committed, or only under arrest for Treason, is Treason by the Common law, *Stam.* 32. *Dal.* 229.

Forfeiture in case of Treason is of lands and goods to the King, and at this day by 26 *H. 8. cap.* 13. 5 *Ed.* 6. c. 11. his lands entailed, and his wife her dower, saving in certain cases, *Dal.* 234.

Judgement and condemnation of a woman in case of Treason, is to be drawn on a hurdle to execution, and burned, *Stam.* 182. *Dal.* 234.

Treasurer.

* Treasurer for relief of Goals is to be chosen at Easter Qu. Sessions by the more part of the Justices of Peace, to be of 5 l. in lands or 10 l. in goods in the last subsidy, to continue but for one year, and then to give up his account at Easter Sessions to his successor, 43 *El.* c. 2.

* The elected refusing the office, or to give relief or account, is to be fined by the Justices in Sessions, or by the Justices of the Assizes by discretion, but not under 3 l. 43 *El.* c. 2.

* Treasurer for Goals is to pay over to the Lord chief Justice and to the Knight Mayor
shall

shall quarterly such summes as the Justices of Peace do appoint, 43 *El.* c. 2.

Treasurer for maimed souldiers is to be elected by the more part of the Justices at Easter-Sessions, and (not being a Justice of Peace) to be 10 l. in lands or 15 l. in goods in the last Subsidy, to continue but one year, and for refusing the office, or misdemeanors, &c. to be fined by the more part of the Justices, but not under 5 l. 43 *El.* c. 3. and to give up his accompt to his successor within ten daies after the Sessions.

The Churchwardens are ten daies before every Qu. Sessions to pay over to the High-Constables the taxation for Goals, 43 *El.* c. 2. And the Churchwardens and petty Constable at the same time to pay to the High-Constable the tax for maimed souldiers, 43 *El.* c. 3. And the High Constables are to pay the same to the Treasurers at the next Q. Sessions, 43 *El.* c. 2 & 3.

If default of payment be made by the High-Constable, he doth incur the penalties, viz. of 20 s. a time for the Goal-money, 43 *El.* c. 2. and of 40 s. for souldier mony, c. 3. And if default be in the Churchwardens, for Goal-money 10 s. a time; if for souldiers mony, the Churchwardens and petty-Constables lose 20 s. a time, 43 *El.* c. 2 & 3. The said forfeitures to be levied by the Treasurer by distress and sale of the offenders goods, and taken in augmentation of the stock.

Trespas, *vide* Hedge-breakers.

As well noble men as Gentlemen in cases of Felony or Treason, or misprision of Treason, are to be tried by their equals, *Lam.* 539.

In Riots, Routs, unlawful assemblies and forcible entries, Nobility shall be tried by common Jurors, *Lam.* 539.

All forein Pleas triable by Jury, and pleaded by any indicted of Treason, Murder, or Felony, shall be tried in the County where the party is arraigned, and by Jurors of that County, 22 *H.* 1. c. 14. 32 *H.* 8. c. 3. *Lam.* 552.

Aliens indicted of Felony or of Murder, must be tried *per medietatem lingue*, *Lam.* 554.

Peer of the Realm indicted of Treasons upon the statute of 3 *Jac.* c. 4. is to be tried by his Peers, 3 *Jac.* c. 4.

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realm, shall be enquired and tried within the Realm, 35. *H.* 8. c. 2. *Dil.* 235. *Co. Inst.* 261. b.

‘ He who is no Lord of the Parliament,
‘ being arraigned for Treason or Felony,
‘ shall be tried by Knights and others, and not
‘ by Lords of the Parliament. So shall Bishops
‘ by reason that they are Lords of the Parlia-
‘ ment by their office, and not in respect of
‘ their Nobility, *Cre.* 110. b. *an.* 6. *Stam.*
‘ 153. a.

Turn of the Sheriff.

Indictment at the Sheriff's Turn to be certified to the Justices at the Quarter Sessions. *Vide* Certificate.

Sheriff's

Sheriff's Turn to be holden within a month after Easter, or within the month after Michaelmas, *Lam.* 504.

Estreats of the Justices of Peace of Fines assessed upon presentments in the Turn being enrolled and indented, are to be levied by the Sheriff to the use of him that was Sheriff at the time of presentment, *1 Ed. 3. c. 7. Lam.* 585.

VAgabons, *vide* Rogues.

Venire facias.

Justices of Peace may award a *Venire facias* against the inditour, to amend a Bill upon the first oath, *Lam.* 507. *8 H. 5. c. 8. Statm.* 97.

Justice of Peace cannot award a *Venire facias* *tot matronas*, to know whether a felon be with child or no, *Lam.* 551.

Verdict.

The Jury in case of felony may give a special verdict, if they will, and the Court, upon examination of the matter, may adjudge contrary to the Verdict. As, The Jury found that *A.* killed *B.* *se defendendo*, and upon examination of the matter, the Court adjudged it to be manslaughter against the verdict, *Cro.* 114. a. *nn.* 1.

Though the Indictment specify the goods to be above 12 d. yet the Jury may say that the goods were worth but 8 d. upon which verdict it shall be taken as petty-larceny,

Cro. 114. a. *nn.* 2.

A man is arraigned of murder, and by the Jury it is found but man-slaughter, it is good, *Cro. 114. a. nu. 3.*

Vessels.

Vessels of ale and beer are to be made of seasoned wood, with the mark of him that sealed it, *Lam. 460.*

Every barrel for beer and every barrel for ale, and so every lesser vessel, by 32 *H. 8. cap. 4.* ought to contain under pain of 3 shill. 4 pence for each default,

	(Barrel 36.	} Ale {	32 16 8	} Gallons.
Beer.	Kilderkin 18.			
	Ferkin 9.			

But now by the statute 1 *Inc. c. 9.* ale and beer shall be sold by retail by one and the same measure, namely by the ale quart, *Cro. 94 b. Dal. 152.*

Vide Assise of Bread and Beer.

Wine	Tun	252.	} Gallons. <i>Dal. 162.</i>
	Pipe	126.	
Oil	Hogshead	63.	
	Barrel	32 and half.	
Hony	Rundlet	16 and half.	

But *Crompton 94. b.* saith, *Popham* chief Justice saith that the measure of wine and ale should be all one, and that so it was agreed by the Justices according to the standard of the Exchequer. But note, saith *Crompton* there, that the ale-quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there should be a nick in the top of the wooden kan, where the measure should be, to which nick the ale should come; *Cro. 94. b.* And so *Master*

Victuals and Victuallers. 335

Wallis Clark of the *Qu.* market told him, January, 25. 1588.

Herring the barrel, half barrel, firkin, shall be of the same content, that ale is, namely the barrel 42 Gallons, &c. 13 *El. c. 11.* 11 *H. 7. c. 23.* *Dal. 153.*

Sope and Butter shall be of the same content with ale, and the empty barrel not to be in weight above 26 pound, & for the other vessels in proportion, 23 *H. 8. c. 4.* *Dal. 151.* *Lam. 461.* The penalty is 3 shill. 4 pence for each one.

Victuals and Victualler.

If Butcher, Fishmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other seller of victual do sell at unreasonable rates, and not for moderate gain, they lose double value, *Lam. 454. 23. E. 3. c. 6. & 13. R. 2. c. 8.*

Brewer selling drink at higher prices than have been appointed by the Justice of Peace, loseth after the rate of 6 shill. a barrel, 23 *H. 8. c. 4.* *Lam. 455.*

Conspiracy or oath taken, or promise made by Butchers, Bakers, Brewers, Poulterers, Cooks, Fruiterers, or any mystery, or any of them, not to sell but at prices agreed between them, the first offence 10 pound, or 20 daies imprisonment; the second, 20 pound, or Pillory; the third, 40 pound, or lose an ear, 2 *El. 6. c. 15.* *Lam. 455.*

To sell swines flesh mezzled, or flesh that died of the murrain, or other corrupt victual, *Stat. de piscivend. cap. 78. 51 H. 3.* *Lam. 455.* is fineable.

Any, except victualers in their houses, buying

buying to sell again by retail butter or
cheese, unless it be in open Fair or Market,
loseth double value, 3 Ed. 6. cap. 21. 14 El.
cap. 11. 27 Eliz. cap. 11. Lam. 456. 1 Jac.
cap. 25.

Process upon the statute of 23 H. 6. c. 12,
against victuallers is attachment, Capias, and
Exigent.

Brewer, or other selling of ale or beer unto
any unlicensed Ale-house-keeper, other then
for necessary provision for his own house-
hold, loseth after the rate of 6 s. 8 d. a
barrel, one moiety to the poor, the other to
the informer, to be heard and determined
at the Quarter Sessions, 4 Jac. c. 4. Lam.
460.

The officer levying the penalty of 4 Jac.
cap. 4. and not delivering the moiety to the
Churchwarden or Overseers of the poor, or
not distributing it within convenient time
after receipt, forfeiteth the double to be re-
covered as the penalty, 4 Jac. c. 4.

Victualler is within the statute, 1 Jac. c. 9.
4 Jac. c. 5. 1 Car. c. 4.

Vide Transportation, Ale-houses, Tipling.

Under-Sheriff.

Consuetudo Rotulorum, or two Justices of Peace,
one to be Quorum, may give unto under-
sheriffs before they exercise their office, the
oaths of 1 Eliz. of Supremacy, and 27 Eliz.
c. 12. touching their office; so of their Depu-
ties and Clerks, or any other meddling with
returning of writs or execution of process in
to any Court of record. So Bailiffs, any of
them executing their office before such oaths
taken,

Unlawful games. 337

taken, lose 40 pound, 27 *El.c.12. Lam.356, 432, 433.*

Under-sheriff or his Clark or deputy doing any thing against their oath, lose treble damages to the party, *Lam. 433.*

Unlawful games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cails, tennis, casting the stone, football, or other unlawful game now invented, and hereafter to be invented, shall be suspected to be used, and may arrest the keeper of every such place, and may imprison them until they finde sureties by recognizance no longer to use such house, game, play, alley or place, 33 *H.8.c.9. Lam. 191. Dal.64. Cro. 79.a. 131.a. 196.a. 197.b. Lam.349, 479.*

Justice of Peace may arrest and imprison such players till they be bound no more to play at such game, *Lam. 192. Cro. 172.a.b. Lam.349, 479. Dal. 63.*

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman or serving man, other then of a Nobleman, or of him that may dispend 100 l. by the year, playing within the precinct of his masters house, shall not play out of Christmas at any unlawful game, or in Christmas out of the house or presence of his master, 33 *H.8.c.9. Lam. 479. 20 shil. every time. Where if other games besides those prohibited, 33 H.8.c.9. be unlawful, as the morrice & other open dances, bear-baitings, common-plaies & fencings, which*
seem

seem to be prohibited by 39 *El. cap. 4. Dal. 63*
1 Car. c. 1.

All offences against the statute of unlawful games may be heard and determined at the Qu. Sessions, Assises or Leet within which they shall happen, *Lam. 614. Vide plus Sunday.*

Unlawful Assemblies.

An unlawful assembly is of the company of three or more persons disorderly coming together, forcibly to commit an unlawful act, as to beat a man, or enter upon his possession, or the like, *Lam. 175. Dal. 221. P. R. 25. Cor. 614. nu. 3.*

First, an unlawful assembly it is, only to meet to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of such act, whether it be done or no, is a Rout. Thirdly, to execute such a thing, is a Riot, *Dal. ibid. Lam. 175, 176. Cra. 614. nu. 3.*

In an unlawfull assembly, Rout or Riot, two things are common, and must concur: first, that three persons at least be gathered together; secondly, that their being together breed some apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actual and express violence to affright peaceable men, or imbolden light and busie bodies by their examples, *Lam. 176, 177.*

There be three degrees of seditious & riotous assemblies: the first from three to twelve; the second of twelve or more; the third of forty and upward, *Lam. 183. 1 El. c. 17. Justice*
of

Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance, *2n. 184.*

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24 hours after reveal the same, *Lam. ibid.*

Vide Forcible entry, Riots.

Usury.

Corruptly to contract for more then 8 pound in the hundred, for forbearance for one year, loseth treble value of the monies, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted, *21 Jac. cap. 17.*

Scriveners taking above five shillings for procuring 100 pound, and for a bond above 12 pence, forfeit 20 pound, *ik.*

Utlawry.

Offenders against the Peace for conspiracies and of Routs in presence of the Justice or in affray of the people, being indicted thereof, if they be not brought in by attachment or distress (for insufficiency) are to be outlawed, *8 Ed. 3. c. 5. Lam. 522.*

After Utlawry the Justices of P. can award no process, but must certifie the Utlawry into the Kings Bench, *Lam. 521, 522.*

One outlawed of felony before Justices of Peace doth appear, and saith he was in the Kings service beyond sea under such a Captain, or in prison in such a County; the Justices cannot write to the Captain or County, *Lam. 552.*

Wages.

Rates of wages of servants and labourers are to be made by the Justices of Peace at Easter Qu. Sessions, and by them to be ingrossed in parchment under their hands and seals, and after it shall be lawful for the Sheriff of the said County to cause proclamation to be made of the several rates so rated in so many places of their several authorities as to them shall seem convenient, and as if the same had been set down printed by the Lord Chancellor or Keeper, after declaration thereof to the Kings Majesty, and certificate thereof into the Chancery, 39 *El.c.12.1 Jac.c.6.*

Any giving wages contrary to the rates appointed and proclaimed, loseth 5 pound, 5 *El.c.4.1 Jac.c.6. Lam. 474.*

Every Justice of Peace (not having lawful excuse testified by oath of one that is in subsidy 5 pound, &c.) that shall not assemble at Easter Sessions, or within 6 weeks after, to rate the wages of servants, &c. shall lose 10 pound, 5 *Eliz. cap. 4. Lam. 632.*

Any having authority by 5 *Eliz.c.4.* to rate wages, may rate the wages of labourers, weavers, spinsters, and of any working by day, week, moneth or year, or by great, 1 *Jac. cap. 6.*

No penalty for not certifying the rates of wages into the Chancery, according to the statute of 5 *El.c.4.* if they be duly proclaimed, 1 *Jac.c.6.*

Rates of wages ingrossed in parchment are to be kept by the *Custos Rotulorum*; if in a Corporation,

Corporation, amongst the records thereof,
lanc. 6.

Any two Justices of Peace, may imprison
 without bail the master for ten daies, for giv-
 ing, and the servant, workman or labourer
 for 21 daies, for taking greater wages then are
 assessed by the Justices of Peace and procla-
 mation thereof made in that county, *5 El.c.*
Dal. 80. Every retainer, promise or pai-
 ment of wages, or other thing whatsoever,
 contrary to the true meaning of *5 El.c. 4.* and
 every writing and bond for that purpose is
 utterly void, *Dal. 80.*

Justice of Peace may have his action of
 debt against the Sheriff for his wages at the
 Sessions, *Cro. 177. a. m. 23.*

Justices of Peace shall be paid their wages
 out of the fines and amerciaments of the same
 Sessions, and they ought to assess the fines in
 the Court, and then the Clark shall indent
 the estreats betwixt the Justices and the Sher-
 iff, and the Justices shall put their names
 thereto, to the end the Sheriff may know to
 whom to pay wages, and levy the same to pay
 to the Justices, whereupon the Sheriff shall
 be allowed the same upon his accompt in the
 Exchequer, *14 R. 2. c. 11. Lam. 628. Cro. 177. a.*
m. 30.

Wainlings.

Any killing any Wainling Calves under
 two years old to sell, lose 6. shill 8 pence for
 every offence determinable at the Quarter
 Sessions, *24. H. 8. cap. 9. 1 lac. cap. 25. Lam. 453.*
607.

Wait-

Lying in wait to maim or kill any other, to be fined, *Lam. 446.*

Warrants.

The Justice of Peace his command by word of mouth is in some cases as strong as his precept in writing, *Dal. 336.*

As,

A Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to finde sureties for their good behaviour, *Dal. 336.*

So upon affray, assault, threatening or any other breach of the Peace done in his presence, he may command the officer being present to arrest such offenders to finde surety for the peace, *Dal. 336.*

But for causes out of his presence one may not arrest another upon the Justices command but by precept in writing, *Dal. ibid. Br. Pea.*

A warrant in writing must be under the Justices hand and seal, or under his hand at least, *Dal. 336. Lam. 85, 88.* But it is better under seal, *Dal. 337.*

A warrant for the peace or good behaviour must contain the special matter, *Dal. 336. La. 87.* but it is better under his seal, *Dal. 337.*

A warrant for treason, murder or felony, or other capital offence and such like, need not contain the special cause, *Cro. 148. a. Dal. 337.*

A warrant is better if it contain and bear the date at the place where it is made, the year and day when it was made, *Cro. 174. a. Dal. 338. am. 88.*

Justice of Peace being out of the County granted

meteth his warrant to be served in the
County; the officer must carry the party be-
fore some Justice of Peace within the County,
Id. Lam. 91.

The County written in the margin of
the warrant, albeit it be not expressed in the
warrant, and in *Com. pradiſto*, shall have re-
lation to the County set in the margin,
102.b. nu. 29.

A Justice of Peace may make his warrant to
be before himselfe: yet upon a warrant for
Peace the usual manner is otherwise, *Co. 5.*
Dal. 170, & 338.

In some cases a Justice of Peace may grant
warrant to attach the offender to be at the
next Sessions of the Peace, to answer his said
crime, *Dal. 338.*

A Justice of Peace may grant his warrant a-
gainst one that hath broken the peace, or
committed misdemeanors against the peace,
to finde sureties for the peace, or good be-
haviour, *Dal. 34, 162, 165, 338.*

Justices of Peace in divers cases (as the case
require) may grant their warrant for the
neglect, or other default: and such
warrant may be either to attach him to be at
the next Sessions, there to answer, &c. or to
bring the offender before the said Justices, or
another Justice, &c. who finding cause to
bind him, may bind him to the next Sessions
to answer the said default. *Vide Dal. 338, &*

Where the statute giveth authority to Justi-
ces of Peace to cause another to do a thing,
they have power of congruity to grant their
warrant to bring such persons before them,
that

that so they may take order therein, *Dal.* 338.

A Justice of Peace maketh a warrant yond his authority, it is not disputable Constable or other inferiour officer, but to be obeyed, *Lam.* 85. *Dal.* 8, 242, 342.

But if the Justice make a warrant to do thing out of his jurisdiction, or in a case wherein he is not a Judge; if the officer execute the warrant, he is punishable, *Dal.* 338. *Cro.* 147. b. *Dal.* 8. *Lam.* 91, 92.

Warrant for the Peace may be directed to any indifferent person by name, though he be not officer: yet it is better to a known officer, *Dal.* 340. *Cro.* 147. a. *Lam.* 88.

A sworn and known Officer need not shew his warrant; but the servant of the office must shew it if it be required, *Dal.* 340. *Lam.* 89. *Cro.* 148. a.

A warrant directed to the Constable to a stranger jointly and severally, and executed solely by the stranger, is good, *Cro.* 147. b. *Dal.* 340.

Warrant directed to two jointly to another, may be executed by one of them, *Dal.* 340. *Lam.* 89.

A Just. of P. may make his warrant to the Sheriff to attach one to bring him to Sessions to finde surety of the Peace, *Lam.* 136. a.

A warrant being directed by a Justice of Peace to the Sheriff, he may by word command any sworn or known officer to execute it without precept in writing, *Dal.* 340. *Lam.* 89.

If a Justice of Peace his warrant be directed

acted to the Sheriffs, Bailiff, Constable, Ju-
servant, or other to arrest one, such
person must serve it himself, *Lam. 89. Dal.*

to whom any warrant shall be direct-
must do it with all security and speed
ibid.

A known officer must, if he will not shew
warrant upon arrest, declare the contents
his warrant, *Co. 6. 54. & 9. 68. Dal. 341.*

Upon arrest in the Kings name, the party
arrested ought to obey, *Dal. ibid.* for if he have
a lawful warrant, the party grieved may
sue his action of false imprisonment, *Dal.*
Co. 9. 68.

An officer arresting a man doth afterwards
secure a warrant; this is a wrongful arrest,
341. Lam. 90, 91.

The officer having a warrant for the peace
and good abearing, may break open the doors,
341. Cro. 170. b.

One is arrested, who upon promise to come
again is let go, and cometh not again; the
officer cannot arrest him by force of his for-
mer warrant, except he prosecutes him with
suit, *Dal. ibid. Br. Faux impris. 18.*

An officer having a lawful warrant to ar-
rest another, is resisted or assaulted by the party
or any other person; the Officer may ju-
stify the beating or hurting such person, *Dal.*
Lam. 92.

If any abuse the warrant, as by casting it in
dirt, or treading it under his feet, he shall
be indicted and fined; for it is the Kings pro-
perty, *Dal. 342. Cro. 149. Quare,* whether he

shall not be bound to his good behaviour,
Dal. ibid. Before

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to bid him to give evidence at the next Gaol-delivery, *Dal.* 342.

Justice of P. is not to grant his warrant gainst an offender of a penal statute to appear at the Sessions, unless it be appointed by statute, but he ought first to be indicted. *Lam.* 187. *Dal.* 339. *Cro.* 197. a. nu. 21.

Justice of Peace cannot make a warrant to arrest a felon except he be indicted, *C.* 147. b. But *Dalton* argueth that a Justice of Peace may make such a warrant, *Vide Dal.* 339.

One wrote to a Justice of Peace to send him a warrant with a blank, to insert therein one whom he would attach upon suspicion of felony. The Justice did so. And for that he sent his Warrant with a blank, to put in a name which he knew not, nor the matter, before the making of the Warrant, he was fined in the Sessions chamber, *Cro. Jurisdiction* 34. a.

All Warrants made in the Kings name ought to be directed to all Ministers as well within liberties as without, *Dal.* 355.

Warrants may be made either 1. in the name of the King; or 2. in the name of the Justice; and either of them must be testified by the Justice from whom they issue; or without style by the subscription of the Justice, *Rice, Dal.* 335.

What Officers Warrants are to be directed by particular Statutes.

'To the Churchwardens, for negligent comers to Church, to levy 12 d. 3 *Jac. c. 4.*

'To the Constable or Churchwardens against an Alehouse-keeper, to levy 10 s. for suffering tipling, 1 *Jac. c. 9.*

'To levy 20 shill. for breaking the Assise, 1 *Jac. c. 9.*

'For selling Ale without licence, 20 shill. 3 *Car. cap. 4.*

'For tipling in an Alehouse, 3 shill. 4. four pence, 1 *Jac. c. 9.*

'For abuses on the Lords day, 1 *Car. c. 1.*

'For Carriers on the Lords day, 20 shill. 3 *Car. c. 1.*

'Shewing boots to sell on Sunday, 3 shill. 4 pence, 1 *Jac. c. 22.*

'To the Constables, Churchwardens, or Overseers of the poor for swearing, 12 d. 21 *Jac. cap. 20.*

To the Constable or other inferiour officer for drunkenness, 5 shill. 4 *Jac. cap. 5. 21 Jac. 7.*

Warreners, *vide* Foresters.

Watches.

Any Justice of Peace may cause night-watches to be kept for the arresting of night-walkers and persons suspect, be they strangers or others of evil fame, *Dal. 144. 13 E. 1. Stat. Winton. c. 4.*

Watch is to be kept yearly from Ascension day till Michaelmas in every town, from sun-setting

setting to sun-rising, *Dal.* 144. *Lam.* 4.

All strangers or persons suspected passed by the watching men, may be examined them; and if there be cause of suspicion, they may stay them, and if they will not obey, may levy hue and cry, and may justifie to beat them, and may stock them till morning, and if they finde no cause of suspicion, deliver them; but if they finde cause, may deliver them to the Constable, to carry them before a Justice of Peace, *Dal.* 144, 360.

Any Justice of Peace may cause all night walkers, strangers or other suspected, especially such as sleep in the day and walk in the night, to be arrested, and such as in the night haunt any house suspected of bawdery, or of suspicious company, or commit other outrages or misdemeanours, and cause them to find sureties for their good behaviour, *Dal.* 8. *Lam.* 118, 119.

No man is compelled to watch unless he be an inhabitant in the town, *Dal.* 145.

Inhabitants are not compellable to watch at the will of the Constable, but when his turn cometh, *Dal.* *ibid.*

Water-men.

Every Justice of Peace within the shire next adjoining to the river of Thames within his jurisdiction, hath power upon complaint by the overseers or rulers of the Water-men and Wherry-men, or two of them, or by the masters of any such servants, both to examine, hear and determine all offence against the statute, and set at large him that shall be imprisoned by the overseers and rulers.

ulers, if there be just cause, and also by his discretion to punish those overseers and rulers, that shall unjustly punish any person 2
3 P. & M. cap. 16. Lam. 203. Dal. 145.

The offences against the statute are,

1. No single man shall be a Waterman, 1
L. c. 16.

2. One of the two rowing in one Boat must be allowed by eight of the overseers by writing under seal.

3. They shall not hide themselves in time of pressing for the Kings service.

4. They shall not take for their fare above the price assessed, and set up in Tables in Westminster Hall. Dal. saith, *quære* whether the Justices of Peace be to meddle with this.

Wax.

One Justice of Peace may examine and search by his discretion such as do sell any candles, or work of wax above four pence in the pound clear gain over the price of the wax, and punish them by forfeiture of that which is to be sold, and the value of that which is sold, and fine to the King, Dal. 145.
Lam. 196, 469. 11 H. 6. c. 12.

Weapons which be forcible.
vide Forcible Entry.

Weers.

Weers in rivers may be surveyed by one Justice of Peace, which he may cause to be made of a reasonable wideness, Lam. 189.

Any making Weers within five miles of the

350 Weights and Measures.

the mouth of any haven or creek, or by weere destroying any fry of fish of the sea, loseth 10 pound, one moiety to the King, the other to the informer, 3 *Inc. cap. 12. Dal. 56.* explaineth the particulars of that stat. of 3 *Inc. c. 12.*

Weights and Measures.

Faults of the officers of Cities and Boroughs in not viewing and examining weights and measures twice a year, to be heard and determined by examination and enquiry of two Justices of Peace, one being of the Quorum, and by them to be fined and amerced; and so of faults of buyers and sellers by other weights and measures then they ought to doe, 11 *H. 7. c. 4. 12 H. 7. c. 5. Lam. 356. Dal. 146.*

Two Justices of the Peace (one of the Quorum) may break and burn such measure as they finde defective, and fine the offender by their discretion, and make process against them as in trespass, 12 *H. 7. c. 5. Lam. 356. Dal. 146. 11 H. 7. c. 4.*

Mayors of Towns taking above a penny for sealing a bushel or other measure, or for weights above a penny for an hundred, and half-penny for half an hundred, a farthing for a less weight, lose 40 s. 11 *H. 7. c. 4. Lam. 437. Dal. 155. 7 H. 7. c. 3.*

Buying and selling by unlawful weights or measures, or in any City or market, with any Weights or measures that are not lawfully marked or signed, he loseth for the first offence, 6 shillings 8 pence, for the second offence 13 shillings 4 pence, and for the third

20 shillings and Pillory, 11 H.7. cap.4. Lam. 460.

To buy corn by heaped measure, except on shipboard, or to use double measure, the one to buy, the other to sell with, the first offence is 6 shillings 8 pence, the second 13 shillings 4 pence, the third 20 shillings and Pillory, 11 H.7. c.4. Lam. 460. 15 R.2. c.4. Stat. de Pistoribus c.8.

Those of the Town where the Kings Standard is appointed to remain, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced, 11 H.7. c.4. Lam. 460. Dal. 155. *Vide plus Vessels.*

Witchcraft.

Invocation, Conjurat[i]on, consultation, covenant, entertainment, imploiment, feeding or rewarding any evil spirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charms, or using any manner of Witchcraft, whereby any person shall be killed, or any part of them wasted or lamed, and also the accessories, is felony without Clergy, 1 Jac. c.12. Lam. 415. Dal. 280.

By Witchcraft or Charms to finde out hidden treasures, to tell where lost goods shall be found, to provoke unlawful love, to destroy or hurt any mans body, or to attempt any of them, the first offence is one years imprisonment without bail, and to stand in the Pillory six hours every quarter of the same year, and confess his offence; the second is felony without Clergy, 1 Jac. c.12. Lam. 415.

Trial of Noblemen upon the Statute of

2 *Iac.c.12.* of Witchcraft, is to be by his Peers,
Lam.415.

Attainder upon the statute *1 Iac.cap.12.* of
Witchcraft, neither loss of Dower, nor corrup-
tion of Blood, *1 Iac.c.12.Lam. ibid.*

Wines.

Wines brought in strange bottomes from
France into any part of *England*, except the Ile
of *Man*, and *Wales*, forfeit the Wines, 27 *El.c.*
12. *Lam.457.*

Any licenced to retail wine, selling above
the prices limited by Proclamation, lose 3 s
4 d. for every Gallon, 27 *El.c.11.Lam.458.*
El.cap.5.

Any under a Barons son, or under 100
marks a year, or 1000 marks in goods, keep-
ing to spend in his house any vessels of *Gas-*
coign wine, *French* or *Roshel* wine, above ten
gallons, loseth 10 pounds, 7 *E.6.cap.5.Lam.*
458.

Woad brought from *France* into any part of
England, except the Ile of *Man* and *Wales* in
strange bottome, forfeiteth the Woad, 27 *El.*
c.11. *Lam.457,458.*

Wood.

Upon complaint of the Lord, and disagree-
ment of the Lord and his Commoners, the
fourth part of the Lords wood may be se-
forth by two Justices, appointed by the great-
est part of the Justices at their Sessions, and
not being of kindred or alliance, or fe-
to the Lord, 35 *H. 8.c.17. 13 El.c.25. Lam.*
359.

Just. in Q. S. Sons may call before them the owner of the good, and 12 of the Commoners to set out the fourth part, *Lam. 509.*

Ingrosser or regrater of Bark, forfeiteth the Bark, 1 *Iac. 22. Lam. 452.*

Any selling of Oaks meet to be barked, before *April*, or after *June*, except for necessary building, as repairing of houses, ships, mills, lose the Oak, or double value, 1 *Iac. c. 22.*

Purveyours taking Timber for the repair of the Kings ships or houses, the owner may retain all the Barks lop and top, and the Purveyor taking them, loseth for every tree 40 shillings to the party grieved, 1 *Iac. 22. Lam. 438.*

Wooll and Wooll-seller.

Buyer of Wooll of any other then the owner of the sheep or tithe, lose the value, 14 *R. 2. c. 4. Lam. 452.*

Woollen-yarn.

Buyer of Woollen-yarn, and not making it into cloth, loseth the value thereof 8 *H. 6. 5. Lam. 452.*

Any sorter, carder, kember, spinster or weaver, receiving wooll and yarn of any clothier or maker of stuff, and embezelling, selling, or detaining the same, and the Receiver or buyer knowing thereof, upon conviction, by confession or oath of one witness before two Justices of Peace, is to make such recompence to the party, as the Just. shall appoint: and the offender being unable, and refusing to do it, is to be whipt or stocked, 7 *Iac. 7. cap. 7.*

Women arraigned for felony may only for one time have the benefit of *Writ of Habeas Corpus*, *Lam.* 563.

Just. of Peace cannot award a *Venire facias* *tot matronas*, to know whether a Woman felon be with child, *Lam.* 551.

Taking away a woman against her will, that hath land, &c. or is heir apparent, not claiming her as ward, and after marry or deflower her, is felony without Clergy. So of the procurers, abettors, and receivers knowing thereof, 3 *H. 7. c. 2.* *Lam.* 421.

A woman being delivered of a Bastard-child, and born alive, that endeavoureth privately by drowning, secret burning, or other way by her self, or procuring of others to conceal the death thereof, as that it may not come to light whether it were born alive or dead, shall suffer as in murder, except she can prove by one witness that the child was born dead, 21 *Iac.* 27.

Women convicted of felonious taking above 12 d. and under 10 s. being not burglary or Robbery in or near any high way, nor taking of money, goods, or chattels from the person of any, privily or as accessory to any such offence, wherein a man may have his Clergy, shall for the first offence be burned in the hand and further imprisoned, whipped and stocked, or sent to the house of Correction (not above a year) as the Justices before whom the conviction is, shall think meet, 21 *Iac.* 6. *Dal.* 272, 273,

Wife and her husband are bound to appear at the Sessions, and in the mean time to keep the peace. The husband only appearing, the Recognizance

Recognizance is not forfeited, *Dal. 179. Quam-
tamen. Cro. 144. b.*

Resolutions of the Judges of Assises, 1633.

1. Question.

WHether the Churchwardens and Overseers of the poor of a Parish with assent of two Justices of the Peace, one being of the Quorum, may by the Statute of 43 *Eliz. cap. 2.* or any Law enforce a Parishioner of the same Parish, to take a child of a poor Parishioner of the same Parish, who is not able to keep his said child, to be an apprentice?

Resol. The Statute of 43 of *Elizabeth*, which saith, that the Churchwardens and Overseers of the Parish shall put out children to be apprentices, necessarily implieth, that such as are fit must receive Apprentices, and the putting out of poor children to be Apprentices is one of the best ways for the providing for the poor.

2 Q. If they may, then whether they must not give money with him, and who shall determine what money shall be given with him, if the party that is to take such an Apprentice, and the Churchwardens, and Overseers cannot agree thereupon?

Resol. There is no necessity that money must be given, but that must be left to the discretion of the Churchwardens and Overseers, all circumstances of age and ability being considered, and if they cannot agree with the party,

then the Justices of Peace near adjoining: or in their default the Sessions of Peace are to determine these Controversies.

3 Q. Whether a Knight, Gentleman, Clergy man, or Yeoman, or one that is Sojourner, using husbandry, cloathing, or grasing, or the like, may be enforced to take such an Apprentice?

Resol. Every man who is by calling or profession or manner of living, that entertaineth, and must have the use of other servants of the like quality, must entertain such apprentices, wherein discretion must be given upon due consideration of circumstances.

4 Q. Whether a wealthy man keeping few or no servants, not wanting a servant, but living privately may be enforced to take such an apprentice; if not, then whether he may be taxed toward the putting forth of such an apprentice?

Resol. For the receiving of such apprentices, the answer may be referred to the question next before; but out of doubt every such person must contribute to the charge, as to other charges for the provision for the poor.

5 Q. Whether they may enforce a Parishioner that is of one Parish, to take such a child apprentice, that is of another Parish, but within the same County, or division, if the proper Parish be not able to provide for the children of the same Parish?

Resol. The Justices may provide Masters for them in other Parishes within the same Hundred; if the same Hundred be not able, then out of that Hundred in the rest of that County, as for other provision for the poor, which must

must be at a Quarter Sessions.

6 Q. If such a Parishioner may be enforced to take such an apprentice, and shall refuse not onely to take such an apprentice, but also refuse to be bound to appear at the next Qu. Sessions, or Assises, what shall be done to him?

Resol. If any refuse; let such a one be bound over to the next Sessions or Assises; if he refuse to give such bond, let him be sent to the Gaol, there to remain until he will give such bond.

7 Q. If such a Parishioner who refuseth to take such an apprentice shall be bound over to the Sessions for not taking such an apprentice, and when he appeareth there, shall likewise refuse, what shall be done to him, and what shall be done to the parents who refuse to suffer their children to be put out to be apprentices, themselves not being able to maintain them?

Resol. If at the Sessions or Assises such a one refuseth to take an apprentice, and his excuse be not allowed, it is fit he be bound to the good behaviour, and it will be a good course to indict such a refuser for a contempt, and thereupon to fine and imprison him, if he refuse to be bound to the good behaviour, let him be imprisoned until he will; and the Kings books of orders directs that such be bound with good sureties to appear at the Council-board; and if the Parents of such poor children refuse to suffer their children to be bound apprentices, or being bound, entice them away, themselves not being able to maintain them, let them be committed to the house of correction.

8 Q. Whether it be in the power of any general quarter-Sessions to mitigate any penalty upon a Statute law; if the party indicted shall submit himself to the fine of the Court, and wave the traverse?

Resol. If the party be convicted or confess the fault, it is not in the power of the Court to mitigate the fine, in such cases where the Statute makes it certain: but if the party indicted protesting his innocency, yet *quis nolit plitare cum domino Rege* puts himself up into the grace of the Court, the Court may impose a moderate fine, and order to forbear the prosecution.

9 Q. If any be bound to appear at the Sessions, and shall tender submission to the Court, whether the Sessions may stay the indictment, and mitigate the fine aforesaid upon the confession of the fact?

Resol. This is answered before to the next precedent Article.

10 Q. If a man be convicted for being drunk, tipling, and keeping an unlicensed Alehouse, or being licensed, for suffering others to remain tipling in his house, or for swearing or driving Cattel upon a Sunday contrary to the statute in that case provided, whether the Justice of Peace, before whom he was convicted, or any other Justice of the Peace, may discharge him of all or part of the Forfeiture or punishment appointed by the Statute?

Resol. The Justices have no such power of mitigation after conviction, where the Statute appoints the measure of the punishment.

11 Q. Whether a Constable may upon a warrant for carrying one to the house of correction for keeping an unlicensed Alehouse upon the second conviction break open the house wherein the party convicted is, to apprehend him?

Resol. This question is to be advised upon, it is put in general terms and referred to be considered in the particular where it appeareth.

12 Q. If a woman unmarried be hired from week to week, or from half year to half year, in one Parish, and there be gotten with child, and then goeth from thence unto another Parish, where she is settled in service by the space of two or three months, and then discover that she is with child; The question is, whether she shall be settled in the parish where she was begotten with child, or in the Parish where she was last settled?

Resol. The place where such a woman was lawfully settled, is the direction in this case, not where she was begotten with child.

13 Q. If a woman servant unmarried be begotten with child, and then goeth out of her Mistress service, before or after it is discovered that she is with child, and the reputed father be run away, or is not able to free the Parish: whether the Master may be enforced to provide for her till she be delivered, and for a month after?

Resol. If the Master hath legally discharged his house of such a servant, he is no more bound to provide for her then any other.

14 Q. In case a Parish consist part of ancient *Demesn* and part of *Guildable*, an Assise is made for

for the relief of the maimed Souldiers, the Gaol, &c. according to the stat. 24 *Eliz. c. 2.* whether the tenants in ancient Demefn shall contribute with the Guildable for the payment of the Assise?

Resol. The Statute doth not distinguish between the ancient Demefn and the Guildable in these cases, *ubi lex non distinguit, ibi nec nos distinguimus.*

15 Q. Whether an Indictment of forcible detainer be within the Statute of 1 *Jac. cap. 5.* & not to be removed by *Certiorari*, unless the party indicted first finde sureties according to that Statute, and whether the party indicted be to be bound in his absence to prosecute according to that Statute, and whether an indictment of forcible entry, &c. found at a private Sessions be to be removed by *Certiorari* without sureties, according to that Statute?

Resol. This is fittest to be left unto the Court of Kings Bench, to whose Commission, and jurisdiction this is most proper.

16 Q. If one be convicted upon the Statute of 3 *Car. R. cap. 13.* for driving of Cattel on the Sunday through several Parishes; whether he forfeit 20 shill. to every of the said Parishes; or onely to one; if to one, then to which of them?

Resol. This Statute giveth the forfeiture but to one 20 shill. for one Sabbath day, Although the driving of that day be through divers Parishes. Therefore where the action is first attached, and the distress first taken, that Parish shall have the benefit of the forfeiture and not the other.

17 Q. If one who is under the age of 30 years,

years, and brought up in husbandry, or a maid-servant, or brought up in any of the Arts or trades mentioned in the Statute of 5 *Eliz. cap. 4.* and not enabled according to that Statute, to live at his or her own hand, shall be warned by two Justices of the P. to put him or her self in service by a day prescribed by them and shall not do the same accordingly, but shall after continue living at his or her own hand, what course shall be taken with such a person, and how punished?

Resol. Such persons being out of service, and not having visible means of their own, to maintain themselves without their labour, and refusing to serve as an hired servant by the year, may be bound over to the next Sessions or Assises, and to be of the good behaviour in the mean time, or may be sent to the house of Correction.

18 Q. Whether the tax for the relief of the poor, upon the Stat. of 43 *Eliz.* shall be made by ability or occupation of lands or both, or whether the visible ability in the Parish where he lives, or general ability wheresoever, & whether his rent received within the Parish where he lives shall be accounted visible ability, and whether he shall be taxed of them only and for any Rents received from other Parishioners; and what shall be said visible ability?

Resol. The land within each Parish is to be taxed to the charges in the first place equally and indifferently, but there may be an addition for the personal visible ability of the Parishioner within that Parish according to good discretion, wherein if there be any mis-
flaking

staking, the Sessions, &c. or the Justice must judge between them.

19 Q. Whether shops, salt-pits, sheds, profits of a Market, &c. be taxable to the poor as well as lands, Cole-mines, &c. expressed in the Statute 43 *Eliz.*

Resol. All things which are real, and a yearly revenue, must be taxed to the poor.

20 Q. Whether the tax for the County stock, Gaol, and house of Correction is to be made by the Stat. of 14 *Eliz. ca. 43.* by ability, and upon the inhabitants of the Parish only, or upon them, or the occupiers of lands, dwelling in that Parish: or whether such as occupy lands in that Parish, and dwell in another Parish shall be taxed?

Resol. If the Statute in particular cases give no special direction, it is good discretion to go according to the rate of taxation for the poor: but when the Statutes themselves give directions, follow that.

21 Q. Whether any taxes ought to be made for the charges that pety-Constables and Bursholders are at in conveying rogues from Parish to Parish, and relieving them, and how to be rated?

Resol. It is fit to relieve the Constable and Tithing-men, in such sort as it hath been used in the several places where they live.

22 Q. Whether a Justice of Peace may discharge a servant being with child from her service, allowing that as a reasonable cause that she is thereby made unable to do the service which otherwise she might have done, and if he may discharge her, whether that Parish shall provide for her till her delivery, if

if she cannot provide for her self; and so also if her time be expired before her delivery, who shall provide for her after her time ended?

Resol. If a woman being with child procure her self to be retained with a master who knoweth nothing thereof, it is a good cause to discharge her from his service. And if she be begotten with child during her service, it is all one, but the Master in neither case must carry away such a servant of his own authority. But if her term be ended, or she lawfully discharged, the Master is not bound to provide for her, but it is a misfortune fallen upon the Parish, which they must bear, as in other cases of casual impotency.

23 Q. Whether being delivered of a bastard child in one Parish, and goeth into another with her child; and becomes vagrant, and so is sent to the place of her birth: her bastard child being under the age of seven years, shall be settled with the mother, and there maintained if the mother be not able, nor the reputed father known, found, or whether it shall be sent to the place of its birth, or being settled with the mother, whether the Parish where it was born shall be ordered by the two next Justices to pay a weekly summe towards the maintenance of it?

Resol. The Bastard child must be placed with the mother, so long as it is within the quality or condition of a Nurse-child, which shall be till seven years of age; and then it is fit to be sent to the place of its birth to be provided for, the mother or reputed father not being able. And the Parish where the child is born

born shall not be forced to contribute to the charge, as long as the mother lives, and the child be under seven years old.

24 Q. A man with his wife and children takes an house in one Parish, for a year; and before the end of his term is unlawfully put out of possession, and after taketh part of an house as an inmate in another Parish, from whence he is also put out, and then not being able to get any dwelling, they come to lie in a Barn in a third Parish where the husband falleth sick, and the wife is delivered of another child, where ought these to be settled?

Resol. If a man or woman having house or habitation in one Parish be thrust out, this is an illegal unsettling which the Law forbid-
deth, for none must be enforced to turn va-
grant, and such one must be returned to the
place where he or she was last lawfully settled,
and the child also born in the time of this di-
straction.

25 Q. Whether an apprentice put out by the Churchwardens, &c. according to the Statute, to a Master in another Parish, if his Master die and leave no Executor or Administrator fit to keep an apprentice, or able to place him: He shall be provided for in the Parish where he was apprentice, or shall be sent back to the Parish from whence he was put out?

Resol. Servants and apprentices are by law settled in that parish, and if they become im-
potent there, the Parish must abide the ad-
venture after their term or time of service be
lawfully ended.

26 Q. What is accounted a lawful settling in a Parish, and what not?

Resol.

Resol. This is too general a question to receive a perfect answer to every particular case which may happen: but generally this is to be observed, that the law unsettleth none who are lawfully settled; nor permits it to be done by practice, or compulsion, and every one who is settled is a native householder, sojourner, an apprentice or servant for a month at the least, without a just complaint made to remove him or her, shall be held to be settled.

27 Q. A rogue is taken at C. and will not confess the place of his birth; neither doth it appear otherwise but that he confesseth the last place of his habitation to be at S. hereupon he is whipped and sent to S. at his coming to S. the place of his birth is there known by some to be at W. and thereupon the rogue confesseth it to be so: whether he might without any new vagrancy be sent to W?

Resol. In this case it is fit to send such a rogue to the place of his birth; for this is but a mistaking, and no legal settling.

28 Q. If an indictment be preferred to the grand Jury of the quarter-Sessions of the P. against one for murder, manslaughter, for robbery, felony, or pety-larceny, and ignoramus found thereupon, whether the said Sessions may deliver the party by Proclamation or not?

Resol. Not by Proclamation at all, but for pety-larcenies, and other pety-felonies, in discretion the Gaol may be delivered of them.

29 Q. If a Constable be chosen and refuseth to take his Oath, what shall be done, and whether a Constable may make a deputy, and by what means?

Resol.

Resol. The refusal or neglect to take Oath in such a case is a contempt worthy of punishment, and thereupon to fine, & imprison him, and the making of a deputy is rather by toleration, then by law.

30 Q. If a Constable die or remove out of the Parish where, &c. how is his place to be supplied ?

Resol. By the Lord of the Leet, if that time fall near, otherwise by the Sessions, but if that be too far off, then by the next Justices.

31 Q. If a poor weak man be chosen Constable or Tithingman, and be unfit for the same place, how may he be removed, and a fit man sworn in his room ?

Resol. The Justices of Peace must help this, and if the Lord of the Leet have power to choose a Constable or Tithingman, and perform to ill, it is a just cause to seize his liberty.

32 Q. If a Nurse-child, a Scholar at a Grammar-School, or in the University, prove to be impotent by sickness, lameness, lunacy, or discovery of ideocy, &c. how such persons shall be disposed ?

Resol. A Nurse child, or a Scholar at the Grammar-School, or at the University, or persons sent to Common-gaol, Hospital, or houses of Correction, are not to be esteemed as persons to be settled there, no more than Travellers in their Inns, but their settling where their Parents are settled ; and children born in Common-gaols, and houses of Correction, their Parents being Prisoners, are to be maintained at the charge of the County.

33 Q. What proportion Parsonages, or Tithes shall bear to the taxation of the poor of the Parish ?

Resol.

Resol. The Parson or Vicar presentative, shall according to the reasonable value of his Parsonage, having consideration to the just deductions.

34 Q. Whether for placing the poor of the parish, not to be removed by consent of the parish, these poor men may not be placed as inmates for a time?

Resol. They may by express words of the statute of the 43 of *Elizabeth*.

35 Q. If a Parishioner or owner within a parish, do bring into the Parish without the consent of the Parish, a stranger of another parish, which is, or apparently is like to be burthen some unto the Parish, how they may use themselves?

Resol. By taking such a one to the charge of the rates of the poor, not only having respect to his ability or the land he occupies, but according to the damage and danger he brings to the Parish by his folly.

36 Q. For warding in the day-time for apprehending of Rogues, whether the Constable may not enlarge it to a farther time?

Resol. Warding in the day-time is of great use, and must be left to the discretion of the Constables, or direction of the Justices to vary according to the occasion.

37 Q. Whether Alehouses ought to be allowed only in thorofare Towns, and others in other places to be restrained only to sell to the poor out of doors.

Resol. The Justices shall do very well to allow none but in places very fit for their situation and uses, and to moderate the number.

38 Q. A man for his quality otherwise fit to

to be a Constable, or of other Office of that nature, procures himself to be the Kings servant extraordinary, and by that means would excuse himself to serve in the Country.

Resol. A servant extraordinary may well perform his ordinary service in the Country according to his quality.

The Justices opinion touching the Commissions by which the Justices sit at Newgate.

THE Justices at Newgate sit by virtue of two Commissions, *viz.* Gaol-delivery, and Oyer and Determiner,

By the Commission of Goal-delivery they may try all prisoners in the Goal or by Bail, of such as be indicted will render themselves generally for all Felonies: and also for such other offences as are particularly assigned to them by Statute.

The Statute of 4 *Elix.c.2.* doth give them power to receive Indictments against Prisoners or such as are upon bail, and to proceed to try the same, *viz.* Indictments taken before the Justices of the Peace, and by equity thereof all Indictments before Coroners, 3 *Mar. Br. Commission. omnium* 24 saith, That the Commission is *ad deliberand. Gaol. de prison. in eis de existens.* But they cannot take Indictments at Justices of Gaol-delivery, but being Justices of the Peace, they may take Indictments against Prisoners, but not against them that be at large: for as much as power is given them consequently they must have means to do so which is by Indictments. *Id quarend.*

Howso

Howsoever it is clear, that they may enquire of many offences, and take indictments in such cases where power by the Statute is given to the Justices of Gaol delivery, in such cases where they have authority by Law or Stat. there the title of Indictments is, that *Ad gaolam deliberationem tent.* before the Commissioners of Gaol-delivery, *I.S.* was indicted, and the Record must be made up so.

And whereas by the Statute of 4 *Elix.c.2.* Indictments taken before Justices of Peace or Coroners, or any other against any Prisoners, then the entry of the Indictments is returned taken, *Memorand. quod ad generalem Sessionem tent.* before *A. B. C.* Justices *ad pacem in Com. Middlesex* or *London, I. S.* was indicted, and then tried before Justices of Gaol-delivery, and by vertue of the said Statute, Indictments taken before Justices of the Peace of *London, or Middlesex,* are tried before Justices of Gaol-delivery.

The Commissioners of Oyer and Terminer is *Ad triand. inquirend. audiend. & determinand.* They may enquire all offences mentioned of in the Commission, albeit the offenders be at large, but they cannot try Prisoners upon Indictments taken before any other then themselves, as the Justices of Gaol-delivery may by the aforesaid Statute, unless there be a special Commission made, as it was in the case of the Earl of *Leicester*, mentioned in *Plow. Com.* for the ordinary Commission of Oyer and Terminer is *ad inquirend. audiend. & determinand.* therefore they cannot determine of things, unless they made enquiry first, and on the other side also the Justices of Gaol delivery

ry may try Indictments taken before Justice so the P. yet if one be indicted before Commissioners of Oyer and Terminer, the Justices of Gaol-delivery cannot try the same, because the Records of the Commission of Oyer and Terminer are to be returned in the King Bench, 44 E. 3. 31.

The Commission and the Records of the proceedings before the Justices of Gaol-delivery, are to be returned to the *Custo. Rotulor* of the County, when the same persons are Justices of Gaol-delivery, and of Oyer and Terminer, they may sit the same day and place, and enquire by the same Jury, but the entry of the Records must be several, according as the Indictment is.

At the Assises in the Countrey, the Justices have their several power as the Justices of Gaol-delivery, Oyer and Terminer, and Justices of Peace.

But when the Records are made up, they must be according to the power they made election to proceed upon.

This is the regular and legal course. But the Clerks of the Assises promiscuously make entry thereof; but if a Writ of Errour be brought, they must certifie according to Law, or else it will be erroneous, and so upon a *Certiorari*.

The Sessions of *London* may be begun at the Guild-hall, and then adjourned to Newgate, If some Indictments be at Guild-hall, then those must be certified: if others at Newgate: then the adjournment must be mentioned, and that the Indictment was then taken.

Note that the trial of Indictments taken before

fore Justices of the Peace of *London*, cannot be tried at Newgate, as in nature of a trial before Justices of the Peace at *London*, for many of the Commissioners for Gaol-delivery, are not Justices of the Peace for *London*, but in such cases the trial must be before the Justices of Gaol-delivery: as upon Indictments taken before the Justices of the Peace of *London*, as in the case of Indictments taken before the Justices of the Peace of *Middlesex*.

But if Indictments at Newgate be originally taken before them, as Justices of Gaol-delivery, then it is inquirable how the Jury sworn, and impannelled to enquire at the Sessions of the P. for *London* or *Middlesex*, do serve to present Indictments before the Justices of Gaol-delivery at Newgate, unless the custome and usage will warrant, the two several Juries, sworn at the Sessions of the Peace for *London*, or *Middlesex*, are also by the same Oath and impannelling to serve for the grand Jury for the Commission of Gaol-delivery, and Oyer and Terminer.

Upon conference with Mr. Keeling, and the Clerks for Newgate of *London* and *Middlesex*, and the Clerks of Assises, and view of the several Entries, a more mature and certain resolution may be given, this being in haste, and without such considerations as were requisite,

Cases

Cases and Resolutions upon the Statutes of 18 *Eliz. cap. 3.* touching Bastard-children. And upon 43. *Eliz. cap. 2.* concerning the poor, and provision for them.

Hammonds Case Mich. 3 Car. Kings Bench.

Bastard.

Hamond having got a child, the examination thereof was referred to the two next Justices according to the Statute: upon which the Justices made an order, which Hamond refused to perform; thereupon they cause him to enter into bond to appear at next Sessions, where he appeared, the Justices there made another order; & because he refused to perform this, they committed him to prison. Resolved the imprisonment was illegal, being not warranted by the Statute, but they ought to have proceeded against him upon his bond.

By *Hide* chief Justice, the Justices ought not to commit for not performing their order of quarter Sessions, where they alter the former order made by the Justices who had first the examination; for by the second order the first was made null.

Con-

Concerning providing for Bastard-children.

Smiths Case Mich. 6. Car. R. B. R.

IT appeared by proof before two Justices that *Smyth* was the reputed father of a bastardchild, and the Justices made an order for maintainance of the child, and for discharge of the Parish according to Law; & afterwards committed him for not performing the order: Resol. the commitment was void, and that the Justices should have taken bond of him to appear at the next Sessions.

The Case was further:

Sir Henry Pool and *Doctor Standard* being the two next Justices, did examine this matter, upon which it then appeared that one *Feild* was the reputed father, and made their order against *Feild*, that he should maintain the child, discharge the Parish, and enter into bond for his appearance at the next quarter-Sessions, and to abide their order there made: He refused to enter into bond, but appeared at the Sessions, and there shewed that *Smyth* was the reputed father; the former order was certified, but the Justices did nothing upon it, but granted a new reference unto *Doctor Standard* and *Master Gregory*, *Riv Henry Pool* being gone out of the Countrey: And they made the last order contrary to the former; and by this they charged *Smyth* as the reputed father. Res. that the Justices at their next quarter-Sessions ought to have made a final order, or to have affirmed or disallowed the former order. And then afterwards have granted a reference to the same next Justices which made

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the first order, to consider better of it, and of the proof; and this had been according to Law.

Resol. That after an appeal to the Sessions and the Justices there do repeal the first order, the matter then is as *res integra* before them; and they may then grant a reference to the two next Justices.

Note. That the Recognizance thought to be in the disjunctive, *viz.* To perform the order by them made, or to appear at the next quarter Sessions, and to abide the order there.

Note. One Justice of Peace by his warrant may commit, but the *Mittimus* being shewed and it not pursuing the Statute, and the Recognizance not being in the disjunctive *Smyth* was bailed to appear at next Sessions &c.

Resol. The reference by the Justices at the Sessions, before they had allowed or disallowed the first order was illegal.

Lower against Painter, Pasch. 8 Car. B.R.

Resol. That upon the Stat. of 18 *Eliz. cap. 3* that the Justices of P. at their Sessions, not the Justices of Assises have power to meddle with bastard-children but upon an appeal & settling. But this is to be done by the two next Justices.

At Salop Assises. 19 *Martii 7 Car. 1631.*

This question was propounded to Sir *William Jones* Knight, Justice of Assise, by a Just. of P. *viz.* upon the stat. of *Eliz. c. 3. & 7 Jac. c. 4* touching bastard-children, by the first Stat. punishment is inflicted; and by the second, if she offend the second time, she is to be sent to the house of Correction, &c. Upon this, questi-

was ; one had a bastard child, but she was not questioned for it, no proceedings being had against her upon the Statute of 18 *Elix.* 3. Afterwards she had a second bastard ; whether she shall be proceeded against upon the Stat. of 7 *Jac.* 4. for the second offence, or whether the second offence shall not be taken for the first.

Resol. She shall not be punished upon the Stat. of 7 *Jac.* as for her second offence, unless she had been before questioned and punished for her first offence ; but this second offence shall be now taken to be as her first offence, and so is to be punished for the same according to Law.

Town of *Tewksbury* against the town of *Twyn.*
ing at Assises, 9 *Julii* 8 *Caroli* 1632.

A servant maid dwelling in *Twynning* was got with child, and being near her time was conveyed by practice into an out-house in *Tewksbury*, where the child was born ; afterwards *Twynning* gave her relief, and the Minister of *Twynning* christened her child, and as soon as she was able to remove, they of *Twynning* gave her and her child relief for two years ; afterwards the mother being sick, they sent her away with her child to *Longden* in *Com. Wigorn.* where the mother died : then they of *Longden* sent the child unto *Twynning*, and they of *Twynning* sent the child (being under the age of three years) unto *Tewksbury*, and they sent it back to *Twynning*.

Resol. The child regularly is to be kept where it was born, if no practice was used to have it born here, but if by practice, then it is to be kept by the parish where she did dwell,

and where she was got with child, and which used practice to have the child born in another Parish, which is the Parish of *Twyning* and so was ordered: referred to the Justices of Peace to examine the practice.

*Ad Assizes, 20 Julii 13 Caroli 1637.
at Glove'.*

Anne Tarling having a bastard-child, upon complaint made thereof to the Sessions it was referred to the next two Justices to examine and order; who did make an order against *John Wood* to be the reputed father, and ordered him to allow 1 s. 4 d. weekly, &c. *Wood* appeals to the Sessions, where the said order was disallowed, and one *William C* charged to be the reputed father: *Jones* Justice without examining the cause, confirmed the last order made at Sessions, which was final, and no appeal to be admitted against it.

And in a *Lincolnshire* cause one *Pridgeon* being questioned, and found by two Justices to be the reputed father of a bastard-child, and so made an order against him for allowance &c.

Afterwards he appeals to the Sessions where the said *Pridgeon* was discharged, and another was found to be the reputed father and an order made against him.

Afterwards at another Sessions of the B upon a re-examination another order was made against the last order, whereby *Pridgeon* was found again to be the reputed father, and so ordered to maintain the child. *Pridgeon* appeals to the Judges of the Kings Bench. Resol. that *Pridgeon* shall be freed from the

good order at Sessions, it being illegal. And the first order made by the quarter-Sessions upon appeal to them to stand in force, and no appeal to be admitted against it, the same being final, and not to be altered by the Judges of Assize. And so it was resolved by the Judges of the Kings Bench.

And so upon the Stat. 43 Eliz. cap. 4. for charitable uses, if the Commissioners make an order or decree in the Case, and upon appeal to the Lord Keeper, and exceptions put in, if upon that the decree made by the Commissioners be confirmed by the Lord Keeper, this decree is by this made to be final, and no subsequent appeal to be admitted.

Cases concerning provision for poor people.

Reves Case, Mich. 7 Car. R. B. R. Stat. 43 E. c. 2.

Poor.

Eve was brought to the Barre by *Hab. Corp.* being committed by the Stat. of 43 Eliz. cap. 2. for that he being the reputed father of *Ben. Gregory*, a poor child, who was maintained by the Parish of *S. Giles* in the Fields, and he being a man of ability refused to maintain the child, or to find sureties for his appearance at next Sessions. *Reve* moved that the commitment was illegal, being grounded upon the said Stat. wherein is this clause, *That the Father and Grandfather, Mother and Grandmother, the Children and Grandchildren of every poor person not able to work (they being of ability) shall pay such rates, and in such wise as*

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the Justices of that County where such person dwells, at their next quarter-Sessions shall assess, upon pain of forfeiting 20 s. per mens. Where in there is no such person taken notice of as the reputed father of a bastard, which is filius popul.

It also appeared that *Reve* dwelt in *Suffolk*, and coming to *London* about Law-suits was taken by a warrant of a Just. of P. of *Middlesex*.

Resol. The granting the warrant was illegal, and all the proceedings in *Mid. coram non Judge*

Nor have the Justices any power at their Sessions in *Middlesex* to make any order, the party living in another County. And he is not to be committed until an order made, and a refusal to pay the 20 s. a month, and if he refuse this, then (for want of distress) to be committed, and not before.

By *Jones* and *Croke* Justices, it is reasonable that he should contribute to the maintenance of the child, he being of ability, but this is not the way to compel him. The Justices in *Suffolk* may make an order in it, and so cause the money to be sent up.

Draper and *Town of Glenfield* in
Com. Leic'.

At Summer Assises before *Hutton* and *Croke* Justices was this Case ; A grandmother being a person of ability had a poor granchild relieved by the said Parish, the grandmother marries with *Draper* ; the question was, whether *Draper* should be taken to be a grandfather within the Statute 43 *Elix. cap. 2.* and so liable to maintain the child.

Resol.

Resol. That he shall, for that the wife after her marriage had no ability at all, her estate being a gift in Law to the husband.

By *Croke*. Where the grandmother was of good ability at the time of the marriage, it is good reason the husband should be charged, but not otherwise.

Mich. 7 Car. Regis. Gerrards Case.

Gerrard married the grandmother being a poor Widow, but had no means nor advancement at all by her, the husband also had but small estate; but having been married 18 or 19 years by industry of the wife are come to be of ability: & whether he should provide for a poor grandchild of his wives was the Question.

Croke Just. If grandfather and grand mother have no estate they shall not be charged. Secondly, if the grand mother have no means; and she afterwards marry with one that hath, he shall not be charged with keeping this child.

But if the husband have sufficient means with the grandmother in marriage, there he shall be charged during the life of the grandmother and no longer.

If land descend to the grandmother after marriage, and the husband enjoys it in her right, here he shall be charged with the child.

When the wife hath ability at the time of the marriage he shall be charged, because by the marriage he hath gotten the means which the grandmother had, out of which the child is to be maintained, and so *transit cum onere*.

Whitlock Justice. The making the order against the grandfather in this Case was well,

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he being become of ability by the industry of his wife. *Croke contra.* The Justices differing in opinion, ordered a trial at Law.

Town of *Kimalton* against *Laystas*, 7 Car. at *H. reford Assises 1621. Stat 43 Eliz. cap. 2.*

Winde and his Wife dwelt at *Laystas* five years; and after came into *Kimalton*, and did there rent a house for a year, and having children, the Town fearing they would be chargeable to them, they procure a Justice of P. to charge the Landlord to warn them out of his house, or put in security to save the Town harmless: The Landlord put them out at the years end, and let his house to another.

Winde complains to the Justices, who order, that the Town of *Kimalton* should provide a house for him & his wife, paying a yearly rent, or else that the overseers of the poor do provide for them, which they refuse to do; whereupon *Winde* complains to the Judges of Assise.

Resolved by *Whitlock* Justice, that the order made by the Justices of the P. was against Law, because that *Winde* was neither poor nor impotent, he being able to work and had means, and paid his rent: But *Winde* is to provide for himself where he can get a house; and he might when he pleased goe again to *Laystas*, where he formerly lived and had means.

Ad Ass. 19 Martii, 7 Car. Regis 1631.
at *Salop. Stat. 43. Eliz. cap. 2.*

Mugaret Brown was begot with child by one *Gough*, the child born in *Drayton* in *Com. Salop* 11 years since, and *Gough* the reputed father took the child from the mother, and placed him

him at nurse elsewhere, and after marries another woman and dwells with her at *S. Chad*, the bastard-child dwelt with him; afterwards *Gangh* the reputed father dies, leaving his wife and divers children, and the said bastard-child all poor and maintained by the Parish.

The mother of the bastard had been all this while in service, but is a simple woman, yet able to work, and had 3 l. left by friends, but not yet come into her hands.

Whether this bastard shall be sent to the Town of *Salop* where he lived for 10 years, or at *Drayton* the place of his birth, or to his mother who is not able to maintain him.

Resol. by *Iones* and *Whitlock* Justices, that this bastard-child is to be sent to his mother to be kept by her if she be able, if she be not, then to the Town of *Salop*, in regard he had been there formerly settled with his reputed father, and because it is the place of last settling, he being there for 10 years, and the Law respects the place of last settling, as well as place of birth.

At the Assises, 28 *Julii*, 5 *Car.* 1629.

Stat. 34 *Eliz.* cap. 2.

Drothy Clavelly with a child under the age of 7 years going about as wanderer, came to *Arlee* in *Com. W.* and there desired a Warrant to be conveyed to *Egleshal* in *Cam. S.* where the child was born: The Constable of *Arlee* made her such a Pass, & delivered her to the Constable of *Rippesford*, who delivered her to the Constable of *B.* in *Com. W.* where by the way she died; they sent the child *Rippesford*, they send it to *Arlee*, *Arlee* sent it back to *Rippesford*.

Whether the Parish where the mother died, or where the child was born was to keep the child?

R. 5

Ano.

Another Case being a wanderer with three children, born in three several Parishes, came with them unto *Dale* in the Parish of *Sale* unto one *Burton* her sister, where she died, and left the three children there.

By *Jones* and *Whitlock* Justices, &c. That the children ought to be kept and provided for by the several Parishes where they were born, and not in the Parish where the mother died *in transitu*, and was so ordered accordingly, because the place of birth is a settling of these children in a place certain; and the wandering of the mother afterwards with them doth not alter the Case.

Resol. also, that the place of birth, or place of last habitation, if the same be known, are in judgement of Law said to be the places of settling. So that if a man be born in one Parish, and afterward is an inhabitant and servant in another Parish, and after this becomes a wanderer, he is here to be sent to the place of last settling, to be there kept and provided for.

Not e. These children in the two last Cases were sent to the places of their births as poor, not as wanderers or vagabonds.

Note also, that the Statute of 39 *Eliz.* 4. for punishing rogues, that the last Proviso therein shall not extend to children under the age of 7 years, for such shall not be accounted wanderers within this Statute.

At *Lincoln* Assises, 11 *Martij* 9 *Caroli*
Regis, 1633

Upon complaint by Sir *Anthony Irby* that the Assessments for the poor by the Town of *Boston* and Overseers were unequal.

By

By *Hutton* and *Croke* Justices; such assessments ought to be made according to the visible estate of inhabitants there both real and personal there, and not for what estate he hath in other Parishes.

He also complained that he had divers tenants there, and that they taxed both him and his tenants.

Resolved, they are by stat. 43 *Eliz.* 2. to assess the occupiers of land, and not the lessor who receives the rent, the occupier being by law charged to pay that Sessment.

At *Worcester* Assises, 11 *Martii* 14 *Cir.*

R. g. 1638. *Stat.* 43 *Eliz.* cap. 2.

Inter Vill. de Suckley, & Vill. de Whitborn.

William Chapel a Creepie born in *Whitborn*, 20 years since he went from thence and dwelt in *Suckley*, and paid rent for a house. And afterwards he came to the Town of *Luston*, and there continued 20 weeks, and wrought as a labourer in a Quarrey of stone, and by a fall of a stone his back was broken, and so he was made impotent, and there was taken as a vagrant wandering and begging; upon this he was sent to *Whitborn* where he was born, but they refused to receive him.

By *Jones* Justice: If he did beg and wander at *Luston* he is then by the Law to be sent to *Whitborn* where he was born, and they ought to provide for him as one of their poor.

Note. At this time it was also resolved, that if one great with child be sent to the house of Correction, & there she is delivered, the child shall be sent to the Parish from whence the mother

the mother came, there be provided for, it being the place where she was last settled.

Note. It was also resolved that a rogue ought not to be sent to the house of Correction, but he is to be whipt and sent to the place where he was last settled, if the same be known, otherwise to the place of his birth.

House of Correction.

But the house of Correction is for the poor of a Parish who refuse to work, there they are to be whipt and set on work.

A Compendious Charge to be given at the Quarter-Sessions.

FOR as much as the Government of this Kingdome consists of two parts, viz. first in Laws Ecclesiastical for the peace of the Church, and Laws Civil or Temporal for the peace of the Land, it is not unfit to lay a foundation by taking notice of that excellent Law made *anno 3 Ed. 1.* which is, First of all the King willeth & commandeth that the peace of the holy Church, & of the Land, be kept and maintained in all points; and that common right and justice be done to all as well poor as rich, without respect of persons: And there is another excellent expression in an Act of Parliament made *32 H. 8. c. 9. viz.* There is nothing which in this Realm that conserves the Subjects in more quietness, rest, peace and good concord, then due administration of Laws; and those Laws which are here proper for your inquiry, and our administration at this time, are first such as made against offences touching Religion.

The Articles of the Charge.

Popes Supremacy.

The affirming or defending by any advised act the Popes Ecclesiastical Jurisdiction in any of the Kings Dominions, the first offence is *Premunire*, the second offence is Treason, 5 Eliz. 1. & 1 Eliz. 1. the third offence high Treason, *ibid.*

Refuse Oath of Supremacy.

The refusing to take the Oath of Supremacy upon any lawful request, the first offence is *Premunire*, and the second is Treason, 1 El. 1. 5 Eliz. 1.

Oath of Allegiance.

The refusing the Oath of Allegiance by any person above 18 years of age it is *Premunire*, stat. 7 Jac. 6.

Seducing any from their obedience.

The practising to withdraw any of his Majesties Subjects from their obedience, and for that intent from their Religion to the Romish, is Treason, 23 Eliz. 1.

Concealing such offenders.

The aiding or concealing such offenders for 40 daies, and not disclosing it to some Just. of Peace, is misprision of Treason, stat. 23 Eliz. 1.

Saying or hearing Mass.

If any shall say or hear Mass, for the first offence forfeits 100 Marks, and for the second offence 200 Marks and one years imprisonment.

Agnus Dei, Popes Bull, &c.

The bringing into the Kingdome, or using any Bull, *Agnus Dei*, gotten from the Bishop of Rome, or other superstitious thing, or offer the

the same to any person to be used ; or the absolving or counselling his Majesties Subjects to the use of them, or concealing or countenancing any such offender, first offence is *Præmunire*, second offence is Treason, 13 Eliz. 2. 23 Eliz.

Jesuite, Priest.

The harbouring or aiding any Jesuite, Priest, or Deacon, ordained by authority from the See of Rome, knowing him to be such, felony without Clergy, 27 Eliz. 16.

Witchcraft.

Witchcraft, or Conjurat[i]on, or invocation of evil Spirits is felony, 1 Jac. c. 12.

False Prophecies.

The publishing of phantastical or false Prophecies to raise rebellion, dissention, lots of life, or other disturbance in the Kingdome ; for the first offence he forfeits 10 li. second offence all his goods, and imprisonment for life, 5 Eliz. 15.

Swearing and cursing.

Prophane swearing and cursing, the offender forfeits 12 d. to the use of the poor of the place where the offence committed, 21 Jac. 20.

Perjury.

The committing or procuring wilful perjury forfeits 20 l. and disabled for a witness, and to stand on the Pillory, 5 El. c. 9. 14 El. 11.

Profaning Lords daies.

Profaners of Lords daies by any pastimes or sports whatsoever, or by voluntary work, as Shoo-makers, forfeit 3 s. 4 d. Drovers, Butchers, forfeit 6 s. 8 d. 1 Car. 1. 3 Car. 1.

Disturbing a Minister.

Disturbing Preachers in Sermons or Divine Service,

Service, three months imprisonment and good behaviour, 1 Mar. 3.

Depraving the Sacraments.

Contemners and depravers of the blessed Sacrament of the body and blood of Christ in word or actions, within three months, imprisonment and fine at discretion, 1 E. 6. 1 Eliz. 1.

Derogating from the Book of Common-Prayer.

Any person or Minister derogating from the Book of Common-prayer, or not using the same, or administering the blessed Sacrament in any other form then is there appointed, the first offence is loss of promotion and one years imprisonment; the second offence deprivation and imprisonment for a year; the third offence deprivation and imprisonment for life, 1 Ed. 6. 1. 2 & 3 Ed. 6. 1. 1 Eliz. c. 2. 23 Eliz. cap. 1.

Justices of Oyer and Terminer, and of Assise may hear and determine.

Or maintaining any Minister in the same, or that shall interrupt the publick Service in the Church; the first offence 10 li. and if not paid within six weeks, he shall suffer three months imprisonment; the second time 20 li. and six months imprisonment; the third time forfeit goods, and imprisonment for life, 2 & 3 Ed. 6. 1.

12 d. a Sunday not coming to Church.

The not repairing to Church upon every Sunday and Holiday weekly, there abiding soberly all the time of Divine-Service, if they be of the age of sixteen years, forfeit 12 d. for every Sundays absence, 1 Eliz. 2. 23 Eliz. 1. 3 Jac. 4.

Recusants.

Recusants.

The not repairing to Church for the space of one month together, forfeits 20 l. a month, or two parts of the offenders lands, 1 Eliz. 2.

School-masters.

The keeping any School-master not resorting to the Church, or allowed by the Ordinary, forfeits 10 l. a month, and that School-master disabled, and one years imprisonment, 23 Eliz. 1. 3. Jac. 4.

Striking in Church or Church-yard.

The malicious striking with any weapon or drawing any weapon in Church or Church-yard, the offender to lose one ear and marked with letter stat. 5 Ed. c. 4.

The keeping of Fair or Market in Church or Church-yard, fine at discretion, 13 Ed. 1. 6. Lam. 419.

Petty Treason.

The servant killing his Master or Mistress, the wife her husband, the Clark his Ordinary, is Petty-treason, 1 E. 6. c. 12.

Murder.

The taking away any mans life upon malice forethought or poisoning any, is murder, 1 E. 6. c. 12.

Stabbing.

The stabbing any that hath not his weapon drawn, or hath not first stricken the party stabbing so as he die within six months, no Clergy to be allowed for this offence, though but Man-slaughter, stat. 1 Jac. cap. 8.

Se defendendo, per infortunium.

Killing any man in his own defence, or by Chance-medley, the party forfeits all his goods, and to be imprisoned untill he sue out his pardon of course.

Curting

Cutting out of tongues.

The cutting out of the tongue, or putting out of eyes of any the Kings Subjects maliciously, is felony by stat. 5 H. 4. c. 5.

Buggery.

Committing the detestable sin of buggery with man or beast, is felony without Clergy, stat. 25 H. 8. 6. 5 Eliz. 17.

Rape.

The forcing or ravishing any woman above 10 years of age, or carnally knowing any under, is felony without Clergy, stat. Westm. 2. c. 34. 18 Eliz. 7.

Marrying two wives.

The taking a second husband or wife, the first being alive is felony, unless the one hath been above the space of 7 years beyond Sea, &c. stat. 1 Jac. II.

Robbery.

The robbing any man upon the high-way, cutting a purse, or taking above 5s. out of any dwelling house in the day time, or breaking any dwelling-house in the night, with a felonious intent, which is burglary, and stealing of horses or mares; all these are felonies without Clergy, 8 Eliz. 4. 5 Ed. 6. 9. 23 H. 8. cap. 1. 39. Eliz. 15.

Felony.

Taking any mans goods with an intent to steal them, is felony, if above 12 d. and if under 12 d. petty larceny.

Burning houses.

The burning maliciously any dwelling-house or barn, having grain or corn therein is felony without Clergy, 4 E. 3. Ph. & Ma. 4.

Servants

Servants embezelling Masters goods.

The Servants embezelling their Masters goods is felony, if it be to the value of 40 s. and the party 18 years of age being trusted with it, unless he be an apprentice, 22 H. 8. 7. 5 Eliz. 10.

Hunting in the night.

The unlawful hunting by night in Parks or Warrens, and denying the same upon examination is felony by the Stat. 1 Hen. 7. cap. 7.

Assemblies to alter Laws, and throw down enclosures.

The rebellious assembly of 12 persons or above, being assembled, and intending to go about a practice with force unlawfully to change any Laws of this Realm, or forcibly to cast down any inclosure, to have any common or high-way there, or do any such unlawful act, and being commanded by the Sheriff or any Justice of Peace by Proclamation to depart, and yet have continued together one hour after; or if any have caused to be raised to the number of 12 persons or above to such intent, and being commanded by Proclamation, and yet have so continued together an hour after; or if any have delivered virtually money or weapons to any such person so assembled, or have hindered any that went to make Proclamation, this is felony per Stat. 1 Mar. c. 12. 2 Eliz. c. 16.

Accessories before and after.

All counsellors or procurors before the felony, and all aiders receivers after the felony, knowing the same, are accessories.

Extortion in a Coroner.

Any Coroner that takes above 13 s. 4 d. for

for the view of any dead body ; and upon the murderers goods, or of the Town from whence he escaped, he forfeits 5 l. 3 H. 7. c. 1.

In a chief Constable.

Any person that takes above 2 d. for registering any servants testimonial upon his departure from one place unto another, fine at discretion, 5 Eliz. 4.

Extortion in an Ordinary for probate of Wills.

Any Ordinary or his Clark that takes above 6 d. for the probate of a Will, or 6 d. for letters of Administration, whereof the goods of the intestate exceeds not 10 l. and not above 3s. 6d. where they exceed not 40 l. or 5 s. for both, or a peny to the Scribe for every line of 10 inches, loseth 10 l. and to the party so much as he hath paid, 22 H. 8. c. 5.

Clark of the Market and other Officers.

Any Clark of the Market, Clark of the Peace, Justices Clark, or Sheriffs Clark, or Bailiffs or other Officers that take above their due fees, 23 H. 6. 10. 1 Ed. 4. 2. 12 H. 7. 15. 42 Ed. 3. 9. 27 Eliz. 7. 27 H. 4. 5 E. 6. 25. 7 H. 7. 3. 7 H. 7. 4.

Hue and Cry.

Hue and Cry raised unjustly, or not being followed when well raised, 3 E. 2. c. 9.

Watch.

Watch not set in any Town between Ascension-day and Michaelmas, 2 Ed. 2.

Going armed.

Riding or going armed in affright of the Country, is imprisonment and loss of armour, 2 Ed. 3. c. 3.

Escape.

Escape.

Escape negligent of any Prisoner arrested for felony, 1 Ric. 3. c. 3.

Barretors.

Common Barretors, or maintainers of suits, Embracers of Jurors, must suffer imprisonment and good behaviour, 34 E. 3. 33 H. 8. 10. 37 H. 8. c. 7.

Forcible entries.

Forcible entries, or detainers of possessions by force, fine and imprisonment, Stat. 8 H. 6. 4.

Cutting ponds.

Cutting of pond-heads, taking of fish, hawks, or hunting deer or conies against the owners will in any warren or ground inclosed, three months imprisonment, and good behaviour for seven year, 5 Eliz. 21. 3 Jac. cap. 13.

Tracing hares.

The tracing hares in the snow, or killing them by any engine, the taking of pheasants or partridges by Net or any other device, as also hawking and hunting in eared corn forfeiture for every pheasant 20 s. for a partridge 10 s. for hawking, 40 s. 11 H. 7. c. 17. 23 Eliz. 10. 7 Jac. 11. 1 Jac. c. 17.

Forestalling.

Forestalling, which is intercepting of corn, and buying it coming to the market before it come there, 5 Ed. 6. c. 14.

Ingrossing.

Ingrossing, which is the buying any corn or commodities with intent to sell again.

Regrating.

Regrating, which is the buying of any commodity

commodity in any Market, and selling it again in the same, or within any other Market within four miles of the same; the first offence loss of goods, and two months imprisonment; the second offence double the goods, and six months imprisonment; the third offence is loss of goods and pillory, 5 E. 6. 14. 5 Eliz. 12. 13 Eliz. 12.

Destroying the egges of wild-fowl.

The taking or destroying the egges of any wild-fowl usually eaten, before the first of March and the last of June, or the fry of fish, imprisonment for a year, and lose for every egge, 25 H. 8. 1. 3 Ed. 6. 3. 1 Eliz. 17. 14 Eliz. c. 1. 27. Eliz. c. 11.

Drunkenness.

Any person convicted of drunkenness forfeits 5 s. to the poor, stat. 4 Jac. 5.

Butchers, &c. selling victuals at immoderate prices.

Butchers, Inholders, Brewers, Bakers, Tipplers, or other sellers of Victuals, at immoderate prices, or that put off any corrupt or unwholesome victuals, are to lose double what they take, 13 R. 2. c. 8. 2 & 3 Ed. 6. c. 15. If it be done by conspiracy, the first offence 10 l. and 20 daies imprisonment, the second offence 20 l. and pillory, the third offence 40 l. and the loss of one ear.

Vessels of wine, ale, &c.

The Vessels of ale, wine, beer, or oil not being of the full standard; the barrel for beer must be 36 gallons; and for ale, wine, and oil 32. fine is 40 s. per stat. 1 R. 3. 13.

H. 6. 11.

Al-houses

Alehouses disorderly.

Any Alehouse being disorderly, or not keeping the Assise of ale and beer, in not selling a full quart of strong, and two quarts of small for a penny, or any other brewing without licence; 20 s. for every offence, and disabled for three years; 4 *Lic.* 5. & 1 *Lic.* 9. lose 20 s. for the first offence, and for the second offence house of Correction, 3 *Car.* 3. 5 *E.* 6. three daies imprisonment without bail.

False weights and measures.

The buying or selling by false and unsigned weights and measures, the first offence 6 s. 8 d. second offence 13 s. 4 d. third offence stand on the Pillory, 11 *H.* 7. 4.

Artificers conspiring, &c.

Artificers conspiring to work but at certain rates, the first offence 10 l. or 20 daies imprisonment with bread and water, second offence 20 l. or standing on the Pillory, third offence 40 l. or loss of an ear, 3 *Ed.* 6. 5.

Guns.

Using or having of Guns or Cross-bows against Law, or shooting hail-shot in them, forfeits 10 l. for every offence, 3 *H.* 8. 6.

Servants.

Retaining servants for less then one year, or they refusing to serve if they be compellable; or their departing, or being put away without a quarters warning, or the allowance of a Justice of Peace. Giving or taking greater wages then is allowed; or departing from one town to another without a testimonial, or not finishing a work begun, or not continuing so many

many hours, being hired by the day or week as is appointed, or taking an Apprentice, or using any art not having been an Apprentice for seven years, *Stat. 5 Eliz. cap. 4.*

Bridges and High waies.

The Bridges or High waies being out of repair, and by whose default. Constables and Churchwardens not calling their Parish together every *Easter-week*, to appoint six days for amending the same, *22 H. 8. cap. 5. 2 & 3 P. & M. c. 8. 5 Eliz. 15. 18 Eliz. 9. 27 Eliz. cap. 11.*

Unlawful Games.

The using or maintaining unlawful games, as Cards, Dice, Bowling, Coyting-clofe, &c. Fine 40 s. for one day, 6 s. 8 d. for every time, *33 H. 8. c. 9.*

Bows and Arrows.

Persons under the age of 60 years, not having Bows and Arrows in his house for himself, servants and children; and inhabitants of any town not continuing their Butts, *33 H. 8. 9. Fine 6 s. 8 d. fine 20 s.*

Cottages. Inmates.

Erecting a Cottage without laying 4 acres of arable land unto it; or entertaining or receiving Inmates, forfeits for erecting 10 l. for continuing 40 s. a month, *31 Eliz. 7.*

Now seeing *Iustitia est duplex*, viz. The punishing part, and the preventing Justice, the premisses only touching the former, therefore the conclusion shall point something at the latter, with a direction how it may be effected: We find by experience that it is not frequent

frequent punishment that prevents offences, *præstat cautela quam medela*, it is better preventing then redressing offences. This preventing Just. consists in three things (according to a learned Authour of our Laws, *Co. 3 Inst. Epilogue.*)

First in the good education of youth, which ought to be by instruction in the knowledge of Religion, and by learning some trade in their tender years, so as their should not be an idle person, or a beggar according to the Scripture, *Deut. 15. 4.* But that every child whose Parents are poor, might at the age of seven years earn their own living; and this for the time to come would by preventing Justice avoid idleness in all, which is the *mare lethum* where so many souls perish, and by honest trades cause them to become good members in the Commonwealth.

Secondly, in the execution of good Laws which are already enough to punish idleness, but none of sufficient force to set idle people or youth on work.

Thirdly to frequent pardons, which make many offend in hope. This preventing Justice is better then punishing Just. as obedience is better then sacrifice, for in sacrifice we do but repent of sin, but in obedience we prevent sin, and it is better preventing then repenting of sin. And therefore worthy every mans consideration and endeavour to promote this preventing Justice according to such good Laws as are already in force.



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